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DEPARTMENT OF ENERGY

10 CFR Parts 602, 710, 712, 725, 835, 850, 851, 1016, 1017, 1045 and 1046

[EHSS–RM–22–WSHP]

RIN 1992–AA62

Organizational Changes in Certain Department of Energy Health, Safety, and Security Regulations

AGENCY: Office of Environment, Health, Safety and Security, U.S. Department of Energy.

ACTION: Final rule; technical amendments.

SUMMARY: The U.S. Department of Energy (DOE) has updated its organizational structure and changed certain titles and reporting duties within the Office of Environment, Health, Safety and Security. This final rule updates certain DOE health, safety and security regulations to reflect the new titles and organizational names. Additionally, the final rule makes further minor updates to these regulations to improve clarity and delete obsolete references.

DATES: This rule is effective June 26, 2023.

FOR FURTHER INFORMATION CONTACT:

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Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of General Counsel, GC–33, 1000 Independence Ave. SW, Washington, DC 20585, Telephone: (202) 287–6111, or by Email at: *jennifer.tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The mission of DOE's Office of Environment, Health, Safety and Security (EHSS) is to provide organizational leadership and strategic approaches for protecting DOE's workers, the public, the environment and national security assets. This objective is accomplished through developing organizational policies and standards and providing guidance on their implementation; sharing operating experience, lessons learned, and best practices; and providing assistance and supporting services to line management with the goal of mission success as DOE's environment, health, safety and security advocate.

On February 10, 2022, DOE updated its organizational structure which changed certain titles and reporting duties within EHSS. Certain of the EHSS's functions are subject to regulations in title 10 of the Code of Federal Regulations (CFR). As a result of the changes, title 10 of the CFR contains references to DOE organizational names and positions that are no longer current. This final rule amends certain regulations in title 10 of the CFR to reflect new organizational names and titles.

Specifically, DOE has changed the title of the Associate Under Secretary for Environment, Health, Safety and Security to the Director of the Office of Environment, Health, Safety and Security and amendments have been made to 10 CFR parts 602, 710, 712, 835, 850, 851, 1016, 1045, and 1046 to reflect that change. In 10 CFR part 725, the reference to ''Chief Health, Safety and Security Officer'' has been changed to the ''Director, Office of Environment, Health, Safety and Security''. The Director of EHSS now reports directly to the Deputy Secretary of Energy rather than a DOE Under Secretary. In addition, the reference in 10 CFR part 1017 to the ''Office of Health, Safety and Security'' has been changed to the ''Office of Environment, Health, Safety and Security''. This final rule also updates the routing symbols of DOE's Office of Environment, Health, Safety and Security from AU to EHSS.

References in 10 CFR part 710 to the Deputy Associate Under Secretary for Environment, Health, Safety and Security have been changed to the Deputy Director for Security, Office of Environment, Health, Safety and Security. A previous reorganization in the Office of Environment, Health, Safety and Security divided the position of the Deputy Associate Under Secretary for Environment, Health, Safety and Security into the Deputy Associate Under Secretary for Environment, Health and Safety and the Deputy Associate Under Secretary for Security. Accordingly, in recognition of that reorganization and the change in titles, references to the Deputy Associate Under Secretary for Environment, Health, Safety and Security in 10 CFR part 710 are being changed to the Deputy Director for Security, Office of Environment, Health, Safety and Security.

Changes are also being made in 10 CFR part 851 to avoid confusion between references to the Director of the Office of Environment, Health, Safety and Security and the Director of the Office of Enforcement, who has been, until now, referred to as ''Director'' in 10 CFR part 851.

In addition, in 10 CFR part 851 DOE is deleting references to subpart G of 10 CFR part 1003, Office of Hearings and Appeals Procedural Regulations, because part 1003 has been amended and the references to subpart G are no longer correct.

This final rule also updates the titles of two of its Under Secretaries. In 10 CFR part 851, a reference to the ''Under Secretary for Science and Energy, or Under Secretary for Management and Performance'' is being changed to the ''Under Secretary for Science and Innovation, or Under Secretary for Infrastructure''. In 10 CFR part 1046, a reference to the ''Under Secretary for Science'' is being changed to the ''Under Secretary for Science and Innovation''.

None of the regulatory amendments in this notice of final rule alter substantive rights or obligations under current law.

II. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

This regulatory action has been determined not to be significant for purposes of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). As a result, the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) did not review this rule.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's website: *www.energy.gov/gc/office-general-counsel.* Because there was no requirement to first publish this regulation for comment, as discussed above, no analysis is required for purposes of the Regulatory Flexibility Act.

C. Review Under the Paperwork Reduction Act of 1995

This rule does not impose a collection of information requirement subject to review and approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (NEPA), DOE has analyzed this proposed action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion (CX) for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. *See* 10 CFR part 1021, subpart D, appendix A5. DOE has determined that this rule is covered under the CX found in DOE's NEPA regulations at paragraph A.5 of appendix A to subpart D, 10 CFR part 1021, because it amends existing regulations without changing the environmental effect of the rules and meets the requirements for the application of a CX. *See* 10 CFR 1021.410. Therefore, DOE has determined that this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an Environmental Assessment or an Environmental Impact Statement.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; (6) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism'' (64 FR 43255 (August 4, 1999)), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this final rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under Executive Order 13175

Under Executive Order 13175 (65 FR 67249, November 6, 2000) on ''Consultation and Coordination with Indian Tribal Governments,'' DOE may not issue a discretionary rule that has ''Tribal'' implications and imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that the final rule will not have such effects and concluded that Executive Order 13175 does not apply to this final rule.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4)) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency regulation that may result in the expenditure by State, Tribal, or local governments, on the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). For a regulatory action likely to result in a rule that may cause this expenditure, section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). The Act

also requires a Federal agency to develop an effective process to permit timely input by elected officials of State, Tribal, or local governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity to provide timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at: *www.energy.gov/gc/office-general-counsel* under ''Guidance & Opinions'' (Rulemaking)). DOE examined this final rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

I. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE has concluded that this regulatory action will not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. The final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.*

DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Administrative Procedure Act

The regulatory amendments in this notice of final rulemaking reflecting changes related solely to internal agency organization, management or personnel, and as such, are not subject to the requirement for a general notice of proposed rulemaking under the Administrative Procedure Act (APA). (*See* 5 U.S.C. 553(a)(2)). There is no requirement under the APA or any other law that this rule be proposed for public comment. For these same reasons, DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

M. Congressional Notification

As required by 5 U.S.C. 801(a)(1)(A), DOE will submit to Congress a report regarding the issuance of this final rule prior to the effective date set forth at the outset of this rulemaking. The report will state it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

III. Approval by the Office of the Secretary of Energy

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 602

Grant programs—health, Medical research, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear energy.

10 CFR Part 712

Administrative practice and procedure, Alcohol abuse, Classified information, Drug abuse, Government contracts, Government employees, Health, Occupational safety and health, Radiation protection, Security measures.

10 CFR Part 725

Classified information, Nuclear materials, Reporting and recordkeeping requirements.

10 CFR Part 835

Federal buildings and facilities, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Nuclear safety, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 850

Beryllium, Hazardous substances, Lung diseases, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 851

Civil penalties, Federal buildings and facilities, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 1016

Classified information, Nuclear energy, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 1017

Administrative practice and procedure, Government contracts, Nuclear energy, Penalties, Security measures.

10 CFR Part 1045

Classified information, Declassification, Formerly restricted data, Restricted data, Transclassified foreign nuclear information.

10 CFR Part 1046

Government contract, Reporting and recordkeeping requirements, Security measures.

Signing Authority

This document of the Department of Energy was signed on June 5, 2023, by Jennifer Granholm, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 7, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy amends Chapters II, III, and X of Title 10 of the Code of Federal Regulations to read as follows:

PART 602—EPIDEMIOLOGY AND OTHER HEALTH STUDIES FINANCIAL ASSISTANCE PROGRAM

■ 1. The authority citation for part 602 continues to read as follows:

Authority: 42 U.S.C. 2051; 42 U.S.C. 5817; 42 U.S.C. 5901–5920; 42 U.S.C. 7254 and 7256; 31 U.S.C. 6301–6308.

§ 602.4 [Amended]

■ 2. Section 602.4 is amended in paragraph (a) by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

§ 602.7 and 602.10 [Amended]

■ 3. Sections 602.7(c) and 602.10(b) and (c) are amended by removing ''AU–13'' and adding in its place ''EHSS–13''.

§ 602.16 [Amended]

■ 4. Section 602.16 is amended by removing ''AU–60,'' and adding in its place ''EHSS–60,''.

PART 710—PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER AND SPECIAL NUCLEAR MATERIAL

■ 5. The authority citation for part 710 continues to read as follows:

Authority: 42 U.S.C. 2165, 2201, 5815, 7101, *et seq.,* 7383h–l; 50 U.S.C. 2401 *et seq.;* E.O. 10865, 3 CFR 1959–1963 comp., p. 398, as amended, 3 CFR Chap. IV; E.O. 13526, 3 CFR 2010 Comp., pp. 298–327 (or successor orders); E.O. 12968, 3 CFR 1995 Comp., p. 391.

§§ 710.8, 710.9, 710.28, 710.29, and 710.31 [Amended]

■ 6. Remove the words ''Deputy Associate Under Secretary for Environment, Health, Safety and Security'' and add in their place the words ''Deputy Director for Security, Office of Environment, Health, Safety and Security'' in the following places:
■ a. Section 710.8(d);
■ b. Section 710.9(h);
■ c. Section 710.28(c)(2) and (3);
■ d. Section 710.29(a) and (b); and
■ e. Section 710.31(b)(1) through (3).

§ 710.34 [Amended]

■ 7. Section 710.34 is amended by:
■ a. Removing the words ''Deputy Associate Under Secretary for Environment, Health, Safety and Security'', in two instances, and adding in their places the words ''Deputy Director for Security, Office of Environment, Health, Safety and Security''; and
■ b. Removing ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in its place the words ''Director, Office of Environment, Health, Safety and Security''.

PART 712—HUMAN RELIABILITY PROGRAM

■ 8. The authority citation for part 712 continues to read as follows:

Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR Chap. IV.

■ 9. Section 712.3 is amended by:
■ a. Removing the definition of ''Associate Under Secretary for Environment, Health, Safety and Security'';
■ b. Adding in alphabetical order a definition for ''Director, Office of Environment, Health, Safety and Security''; and
■ c. Removing from the definitions of ''Designated Physician'' and ''Designated Psychologist'' the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

The addition reads as follows.

§ 712.3 Definitions.

* * * * *

Director, Office of Environment, Health, Safety and Security means the DOE individual with responsibility for policy and quality assurance for DOE occupational medical programs.

* * * * *

§§ 712.4, 712.10, 712.12, 712.14, 712.23, 712.24, 712.34, 712.35 and 712.36 [Amended]

■ 10. Remove the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and add in their place, the words ''Director, Office of Environment, Health, Safety and Security'' in the following places:
■ a. Section 712.4;
■ b. Section 712.10(b);
■ c. Section 712.12(c)(1) and (d) introductory text;
■ d. Section 712.14(f)(1) and (3);
■ e. Section 712.23(a), (b) introductory text, and (c);
■ f. Section 712.24(a);
■ g. Section 712.34(a), (b) introductory text, (c), and (d);
■ h. Section 712.35 heading and introductory text; and
■ i. Section 712.36(d)(1) and (3).

PART 725—PERMITS FOR ACCESS TO RESTRICTED DATA

■ 11. The authority citation for part 725 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 943, 42 U.S.C. 2201.

§§ 725.1, 725.4, 725.7, 725.13, 725.21, 725.23, 725.24, 725.25; 725.28, 725.29, and 725.30 [Amended]

■ 12. Remove the words ''Chief Health, Safety and Security Officer'' and add in their place the words ''Director, Office of Environment, Health, Safety and Security'' in the following places:
■ a. Section 725.1;
■ b. Section 725.4;
■ c. Section 725.7;
■ d. Section 725.13 in two instances;
■ e. Section 725.21(a);
■ f. Section 725.23(b) and in the introductory text of the agreement in paragraph (c)(4);
■ g. Section 725.24 introductory text;
■ h. Section 725.25(b);
■ i. Section 725.28;
■ j. Section 725.29; and
■ k. Section 725.30

§ 725.3 [Amended]

■ 13. Section 725.3 is amended by revising paragraph (d) to read as follows.

§ 725.3 Definitions.

* * * * *

(d) *Director of the Office of Environment, Health, Safety and Security* means the DOE official to whom the Secretary assigns the authority to develop policy and technical assistance; safety analysis; and organizational safety and security programs, or the Director's duly authorized representatives.

* * * * *

§§ 725.5 and 725.11 [Amended]

■ 14. Remove the words ''Chief Health, Safety and Security Officer, HS–1/ Forrestal Building'' and adding, in its place, the words ''Director, Office of Environment, Health, Safety and Security, EHSS–1'' in the following instances:

■ a. Section 725.5; and

■ b. Section 725.11(a).

PART 835—OCCUPATIONAL RADIATION PROTECTION

■ 15. The authority citation for part 835 continues to read as follows:

Authority: 42 U.S.C. 2201, 7191, 50 U.S.C. 2410.

§ 835.1 [Amended]

■ 16. Section 835.1 is amended in paragraph (b)(6) by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in its place the words ''Director, Office of Environment, Health, Safety and Security''.

PART 850—CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

■ 17. The authority citation for part 850 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 29 U.S.C. 668; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.,* E.O. 12196, 3 CFR 1981 comp., at 145 as amended.

§ 850.10 [Amended]

■ 18. Section 850.10 is amended in paragraph (b)(2) by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

§ 850.39 [Amended]

■ 19. Section 850.39 is amended in paragraph (g) by removing the words ''DOE Chief Health, Safety and Security Officer'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 20. The authority citation for part 851 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.;* 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq,* 28 U.S.C. 2461 note.

§ 851.3 [Amended]

■ 21. Section 851.3 is amended in paragraph (a) by:

■ a. Removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in the definition of ''Consent order'';

■ b. Removing the definition of ''Director'';

■ c. Adding in alphabetical order definitions for ''Director of the Office of Enforcement (Enforcement Director)'' and ''Director of the Office of Environment, Health, Safety and Security (EHSS Director)'';

■ d. Removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in the definition of ''DOE Enforcement Officer''; and

■ e. Removing the words ''Under Secretary for Science and Energy, or Under Secretary for Management and Performance'' and adding in their place the words ''Under Secretary for Science and Innovation, or Under Secretary for Infrastructure'' in the definition of ''Under Secretary''.

The additions read as follows.

§ 851.3 Definitions.

* * * * *

Director of the Office of Enforcement (Enforcement Director) means the DOE official designated by the Secretary, or that person's designee, to carry out the enforcement authorities reflected in subpart E of this part.

Director of the Office of Environment, Health, Safety and Security (EHSS Director) means the DOE official to whom the Secretary assigns the authority to develop policy and technical assistance; safety analysis; and organizational safety and security programs.

* * * * *

§ 851.11 [Amended]

■ 22. Section 851.11 is amended in paragraph (b)(2) by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''EHSS Director''.

§ 851.20 [Amended]

■ 23. Section 851.20 is amended in paragraph (b)(5) by removing the word ''Director'' in two places and adding in its place the words ''Enforcement Director''.

§ 851.30 [Amended]

■ 24. Section 851.30 is amended in paragraph (a) by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''EHSS Director''.

§ 851.31 [Amended]

■ 25. Section 851.31 is amended by:

■ a. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''EHSS Director'' in paragraphs (a)(1) through (3) and (b) introductory text;

■ b. Removing the words ''Associate Under Secretary'' and adding in their place the words ''EHSS Director'' in paragraph (b) introductory text; and

■ c. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''EHSS Director'' in paragraph (c)(5).

■ 26. Section 851.32 is amended by:

■ a. Revising paragraph (a)(1);

■ b. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''EHSS Director'' in paragraphs (a)(2) and (4);

■ c. Revising paragraph (c)(1); and

■ d. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''EHSS Director'' in paragraphs (c)(2)(i) and (ii).

The revisions read as follows:

§ 851.32 Action on variance requests.

(a) * * *

(1) If the EHSS Director recommends approval of a variance application, the EHSS Director must forward to the Under Secretary the variance application and the approval recommendation including a discussion of the basis for the recommendation and any terms and conditions proposed for inclusion as part of the approval.

* * * * *

(c) * * *

(1) If the EHSS Director recommends denial of a variance application, the EHSS Director must notify the CSO of the denial recommendation and the grounds for the denial recommendation.

* * * * *

§ 851.34 [Amended]

■ 27. Section 851.34 is amended in paragraphs (a) and (c) by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and add, in their place, the words ''EHSS Director''.

■ 28. Section 851.40 is amended by:
■ a. Revising paragraph (a);
■ b. Removing the word ''Director'' and adding in its place the words ''Enforcement Director'' wherever it appears in paragraphs (b) through (e);
■ c. Removing the word ''Director's'' in paragraph (e) and adding in its place the word ''Enforcement Director's''; and
■ d. Removing the word ''Director'' and adding in its place the words ''Enforcement Director'' wherever it appears in paragraphs (f) and (h) through (k).

The revision reads as follows:

§ 851.40 Investigations and inspections.

(a) The Enforcement Director may initiate and conduct investigations and inspections relating to the scope, nature, and extent of compliance by a contractor with the requirements of this part and take such action as the Enforcement Director deems necessary and appropriate to the conduct of the investigation or inspection. DOE Enforcement Officers have the right to enter work areas without delay to the extent practicable, to conduct inspections under this subpart.

* * * * *

§§ 851.41 and 851.42 [Amended]

■ 29. Remove the word ''Director'' and add in its place the words ''Enforcement Director'' in the following places:
■ a. Section 851.41(a), (b) introductory text, and (b)(1); and
■ b. Section 851.42(a), two instances, and (b)(4).

§ 851.43 [Amended]

■ 30. Section 851.43 is amended by removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in paragraph (a) and two instances in paragraph (b), and by removing '', subpart G'' in paragraph (b).

§ 851.44 [Amended]

■ 31. Section 851.44 is amended in paragraph (a) by removing ''part 1003, subpart G of this title'' and adding in its place ''10 CFR part 1003''.

§ 851.45 [Amended]

■ 32. Section 851.45 is amended by:
■ a. Removing the words ''Director'' and adding in its place the words ''Enforcement Director'' in paragraph (a) introductory text; and
■ b. Removing the word ''Director's'' adding in its place the words ''Enforcement Director's'' in paragraph (b).

Appendix B to Part 851 [Amended]

■ 33. Appendix B to part 851 is amended:
■ a. In section IV by:
■ i. Removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in paragraphs (a) introductory text and (b) introductory text; and
■ ii. Removing the word ''Director's'' and adding in its place the words ''Enforcement Director's'' in paragraph (b)(3);
■ b. In section V by:
■ i. Removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in paragraph (b) introductory text and two instances in paragraph (b)(3); and
■ ii. Removing ''Subpart G,'' in paragraph (c).
■ c. In section VII, by removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in paragraph (b);
■ d. In section VIII, by removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in paragraph (a); and
■ e. In section IX, by removing the word ''Director'' and adding in its place the words ''Enforcement Director'' in paragraphs 1(e)(2) and 2(d).

PART 1016—SAFEGUARDING OF RESTRICTED DATA BY ACCESS PERMITTEES

■ 34. The authority for part 1016 continues to read as follows:

Authority: Sec. 161i of the Atomic Energy Act of 1954, 68 Stat. 948 (42 U.S.C. 2201).

§ 1016.4 [Amended]

■ 35. Section 1016.4 is amended by removing the words ''Associate Under Secretary, Office of Environment, Health, Safety and Security, AU–1'' and adding in their place the words ''Director, Office of Environment, Health Safety and Security, EHSS–1''.

§ 1016.19 [Amended]

■ 36. Section 1016.19 is amended in paragraphs (a) and (c) by removing ''AU–60'' and adding in its place ''EHSS–60''.

PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

■ 37. The authority citation for part 1017 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* 42 U.S.C. 2168; 28 U.S.C. 2461 note.

§§ 1017.5 and 1017.13 [Amended]

■ 38. Sections 1017.5(c) and 1017.13 are amended by removing the words ''Office of Health, Safety and Security'' and adding in their place the words ''Office of Environment, Health, Safety and Security''.

PART 1045—NUCLEAR CLASSIFICATION AND DECLASSIFICATION

■ 39. The authority citation for part 1045 continues to read as follows:

Authority: 42 U.S.C. 2011; E.O. 13526, 75 FR 705, 3 CFR 2010 Comp., pp. 298–327.

§§ 1045.15 and 1045.20 [Amended]

■ 40. Sections 1045.15 and 1045.20 are amended by removing the word ''AU–60'' and adding in its place the word ''EHSS–60''.

■ 41. Section 1045.30 is amended by:
■ a. Removing the definition of ''Associate Under Secretary for Environment, Health, Safety and Security''; and
■ b. Adding in alphabetical order a definition for ''Director, Office of Environment, Health, Safety and Security''.

The addition reads as follows.

§ 1045.30 What definitions apply to this part?

* * * * *

Director, Office of Environment, Health, Safety and Security means DOE's Director for Environment, Health, Safety and Security or any person to whom the Director's duties are delegated.

* * * * *

§ 1045.45 [Amended]

■ 42. Section 1045.45 is amended in paragraph (b) introductory text by removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

§ 1045.55 [Amended]

■ 43. Section 1045.55 is amended in paragraph (d) by removing ''AU–60'' and adding in its place ''EHSS–60''.

§§ 1045.60, 1045.80, 1045.85, and 1045.100 [Amended]

■ 44. Sections 1045.60, 1045.80(a), 1045.85(a)(1) and (2), and 1045.100(b) are amended by removing the words ''Associate Under Secretary for

Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

§ 1045.105 [Amended]

■ 45. Section 1045.105 is amended by:
■ a. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding, in their place, the words ''Director, Office of Environment, Health, Safety and Security'' in paragraph (b); and
■ b. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security, AU–1'' and adding, in their place, the words ''Director, Office of Environment, Health, Safety and Security, EHSS–1'' in paragraph (c).

§ 1045.110 [Amended]

■ 46. Section 1045.110 is amended by:
■ a. Removing ''AU–60'' and adding in its place ''EHSS–60'' in paragraph (c)(1); and
■ b. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security, AU–1'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security, EHSS–1'' in paragraph (c)(5).

§ 1045.180 [Amended]

■ 47. Section 1045.180 is amended by:
■ a. Removing ''Associate Under Secretary of Environment, Health, Safety and Security at the following address: Associate Under Secretary for Environment, Health, Safety and Security, AU–1'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security at the following address Director, Office of Environment, Health, Safety and Security, EHSS–1'' in paragraph (b)(1); and
■ b. Removing the words ''Associate Under Secretary of Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security'' in paragraphs (b)(2), (d), and (e)(1) and (2).

§ 1045.190 [Amended]

■ 48. Section 1045.190 is amended in paragraph (b) by removing ''AU–60'' and adding in its place ''EHSS–60''.

§ 1045.210 [Amended]

■ 49. Section 1045.210 is amended by:
■ a. Removing the words ''Associate Under Secretary of Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security'' in paragraph (a); and
■ b. Removing the words ''Associate Under Secretary for Environment, Health, Safety and Security, AU–1'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security, EHSS–1'' in paragraph (b) introductory text.

§§ 1045.215 and 1045.220 [Amended]

■ 50. Sections 1045.215(a) and (b) and 1045.220(a) and (b) are amended by removing the words ''Associate Under Secretary of Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

PART 1046—MEDICAL, PHYSICAL READINESS, TRAINING, AND ACCESS AUTHORIZATION STANDARDS FOR PROTECTIVE FORCE PERSONNEL

■ 51. The authority citation for part 1046 continues to read as follows:

Authority: 42 U.S.C. 2011, *et seq.;* 42 U.S.C. 7101, *et seq.;* 50 U.S.C. 2401, *et seq.*

§ 1046.2 [Amended]

■ 52. Section 1046.2 is amended by:
■ a. Removing the words ''Associate Under Secretary for the Office of Environment, Health, Safety and Security (AU–1)'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security (EHSS–1)'' in paragraph (c);
■ b. Removing the words ''AU or its successor organization. AU–1'' and adding in their place the words ''EHSS or its successor organization. EHSS–1'' in paragraph (d); and
■ c. Removing from paragraph (e) the words:
■ i. ''Under Secretary for Science'' and adding in their place the words ''Under Secretary for Science and Innovation''; and
■ ii. ''Associate Under Secretary for Environment, Health, Safety and Security'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security''.

§ 1046.3 [Amended]

■ 53. Section 1046.3 is amended in the definitions of ''Designated Physician'' and ''Weapons proficiency demonstration'' by removing ''AU–1'' and adding in its place ''EHSS–1''.

§ 1046.4 [Amended]

■ 54. Section 1046.4 is amended in paragraphs (a)(1) introductory text, (a)(1)(iv), (a)(2) and (3), (b) introductory text, (d)(1) introductory text, (d)(2), and (e) through (g) by removing the ''AU–1'' and adding in its place ''EHSS–1''.

§ 1046.5 [Amended]

■ 55. Section 1046.5 is amended in paragraph (c) by removing ''AU–1'' and adding in its place ''EHSS–1''.

§ 1046.13 [Amended]

■ 56. Section 1046.13 is amended by:
■ a. Removing ''AU–1'' and adding in its place ''EHSS–1'' in paragraph (b)(3);
■ b. Removing the words ''Office of Health, Safety and Security'' and adding in their place the words ''Office of Environment, Health, Safety and Security'' in paragraph (f); and
■ c. Removing the words ''Chief Health, Safety and Security Officer'' and adding in their place the words ''Director, Office of Environment, Health, Safety and Security'' in paragraph (g)(1)(i).

§ 1046.15 [Amended]

■ 57. Section 1046.15 is amended in paragraphs (c) introductory text, (c)(1) through (3), (c)(4) introductory text, (c)(4)(iii), (c)(5), (c)(6) introductory text, (c)(7) and (8), and (d) by removing ''AU–1'' and adding in its place ''EHSS–1'' wherever it appears.

§ 1046.17 [Amended]

■ 58. Section 1046.17 is amended in paragraph (k)(6) by removing ''AU–1'' and adding in its place ''EHSS–1''.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No.: FAA–2022–0772; Amdt. Nos. 25–150 and 121–389]

RIN 2120–AL59

Installation and Operation of Flightdeck Installed Physical Secondary Barriers on Transport Category Airplanes in Part 121 Service

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule implements a mandate in the FAA Reauthorization Act of 2018 by requiring that certain airplanes used to conduct domestic, flag, or supplemental passenger-carrying operations have installed a physical secondary barrier that protects the flightdeck from unauthorized intrusion when the flightdeck door is opened.

DATES: Effective August 25, 2023.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Dan Jacquet, AIR–626, Human-Machine Interface Section, Technical Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198; telephone (206) 231–3208; email *Daniel.Jacquet@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This final rule implements [1] section 336 of the FAA Reauthorization Act of 2018 by requiring the installation and use of an installed physical secondary barrier (IPSB) that will be deployed (closed and locked) whenever the flightdeck door is opened while the airplane is in flight. This final rule affects operators conducting passenger-carrying operations under title 14 of the Code of Federal Regulations (14 CFR), part 121, with transport category airplanes operating in the United States by requiring the operators to use the IPSB, when installed, as part of their procedures for opening the flightdeck door. Affected operators must comply with this rule when operating transport category airplanes manufactured two years after the effective date of this final rule.

In this final rule, the FAA estimates costs of $35,000 for the purchase and installation of an IPSB. After the addition of training and other costs, the present value costs for this rule are $236.5 million ($20.3 million annualized) at a 7 percent discount rate and $505 million ($29 million annualized) at a 3 percent discount rate. When the flightdeck door must be opened for lavatory breaks, meal service, or crew changes, the flightdeck could be vulnerable to attack. The benefit of this rule, requiring installation and use of IPSBs on airplanes in part 121 service, is to slow such an attack long enough so that an open flightdeck door can be closed and locked before an attacker could reach the flightdeck.

[1] The FAA determined that an informal rulemaking proceeding under section 553 of the Administrative Procedure Act is appropriate to prospectively apply these requirements on certain newly-manufactured airplanes.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (U.S.C.). Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is issued under the authority described in Subtitle VII, part A, subpart III, section 44701, ''General Requirements.'' Under that section, the FAA is charged with prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

In addition, section 336, ''Secondary Cockpit Barriers,'' of the FAA Reauthorization Act of 2018, Public Law 115–254 (Oct. 5, 2018), directs the Administrator of the FAA to issue an order requiring installation of a secondary flightdeck barrier on ''each new aircraft that is manufactured for delivery to a passenger air carrier in the United States operating under the provisions of part 121 of title 14, Code of Federal Regulations.''

III. Background

A. History

Following the events of September 11, 2001, the FAA adopted standards for flightdeck security in January 2002 by adding 14 CFR 25.795 and amending 14 CFR 121.313.[2] Those amendments were intended to make the flightdeck resistant to forcible intrusion and small firearms, and prevent unauthorized entry into the flightdeck. These requirements were based on International Civil Aviation Organization (ICAO) standards,[3] and the recommendations of the Aviation Rulemaking Advisory Committee (ARAC) [4] Design for Security Harmonization Working Group. ARAC included representatives of aircraft owners and operators, airmen and flight crewmembers, airports, aircraft maintenance providers, aircraft manufacturers, public citizen and passenger groups, training providers, and labor organizations.

Even a strong and secure flightdeck door, however, must occasionally open to accommodate necessary activities such as lavatory breaks and meal service. Between the time of opening and closing the flightdeck door (door transition), the open flightdeck has some degree of vulnerability to attack. Such an attack could happen quickly, and leave insufficient time for the cabin crew to react.

Therefore, in 2007, the FAA promulgated requirements [5] to address the security of the flightdeck when the flightdeck door was opened, however briefly. Specifically, the FAA adopted §§ 121.584, ''Requirement to view the area outside the flightdeck door,'' and 121.587, ''Closing and locking of flightcrew compartment door,'' to require that the flightdeck door be locked when the airplane is in operation, unless it is necessary to open it to permit access by authorized persons, and require compliance with FAA-approved procedures for opening the door.

As a result of these new requirements, air carriers and type design holders developed various methods and designs, including the use of crewmembers and equipment and, in limited cases, IPSBs,[6] to help secure the flightdeck during the period when the flightdeck door was open during flight. To provide guidance and recommendations for these different methods and designs, RTCA, Inc. (RTCA),[7] formed a committee to develop recommended procedures and standards for airplane secondary barriers. In 2011, RTCA produced DO–329, ''Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.'' DO–329 describes various means of addressing the times when the flightdeck door must be opened. In this context, these means can be combinations of people, procedures and/or equipment. The document does not recommend one of these means over another, but provides advice on the use of each one to meet the objective of a secure flightdeck. Subsequently and based on the RTCA's report, the FAA issued Advisory Circular (AC) 120–110, ''Aircraft Secondary Barriers and

[2] *Security Considerations in the Design of the Flightdeck on Transport Category Airplanes,* 67 FR 2117 (January 15, 2002).

[3] Adopted by Amendment 97 to Annex 8 to the Convention on International Civil Aviation on March 12, 1997.

[4] See ARAC–ICAO Amendment 97 to Annex 8 and Resistance to Intrusion Complete File (Design for Security HWG, TAE), *www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/342.*

[5] *Flightdeck Door Monitoring and Crew Discreet Alerting Systems* (72 FR 45629; August 15, 2007).

[6] Relatively few such IPSBs were installed, relative to the total number of airplanes in scheduled service, and most have since been removed. The FAA is not aware of the reasons for removal. In addition, the FAA has no data regarding whether those varying installations would have met the requirements of this proposal.

[7] RTCA was formerly the Radio Technical Commission for Aeronautics and an Advisory Committee to the FAA.

Alternate Flight Deck Security Procedures,'' in 2015. That AC references various means of compliance with § 121.584(a)(1), which prohibits the flightdeck door from being unlocked during flight unless the operator has an approved procedure and visual device to verify that the area outside the flightdeck door is secure.

B. Congressional Mandate

On October 5, 2018, Congress enacted the FAA Reauthorization Act of 2018 (the ''Act''). Section 336 of the Act required the FAA to issue an order requiring installation of a secondary flightdeck barrier on each new aircraft that is manufactured for delivery to a passenger air carrier in the United States operating under provisions of part 121.

C. ARAC Report

On June 20, 2019, to facilitate the implementation of the mandate in section 336 to require secondary barriers on certain aircraft, the FAA tasked ARAC[8] to recommend standards for IPSB. The ARAC formed the Flightdeck Secondary Barrier Working Group (the ''Working Group''), under the Transport Airplane and Engine Subcommittee, to carry out the tasks. The Working Group included representatives from manufacturers, air carriers, and pilot and flight attendant unions. On February 27, 2020, the Working Group submitted its ''Recommendation Report to Aviation Rulemaking Advisory Committee for Implementation of Section 336 of Public Law 115–254'' (the ''Report'')[9] to ARAC. ARAC accepted the Report in March of 2020 and forwarded it to the FAA.[10] The Report contained 21 recommendations, most of which were by consensus.[11] This final rule incorporates those consensus recommendations.

D. Summary of the Notice of Proposed Rulemaking (NPRM) and Final Rule

This rulemaking finalizes the NPRM published August 1, 2022, which proposed to implement section 336 of the Act by requiring that certain airplanes used to conduct passenger-carrying operations under 14 CFR part 121 (*i.e.,* domestic, flag, or supplemental) have an IPSB that protects the flightdeck from unauthorized intrusion when the flightdeck door is opened (87 FR 46892).

In the NPRM, the FAA proposed that the IPSB must resist intrusion, provide line-of-sight visibility to allow crewmember situational awareness of the area between the passenger cabin and the entry to the flightdeck, and meet certain physical standards (*i.e.,* design standards in new § 25.795(a)(4)), but still allow for necessary crewmember activities.

The proposed rulemaking would affect operators conducting passenger-carrying operations under part 121 with transport category airplanes. The NPRM proposed that operators would be required to incorporate the use of an installed IPSB into their flightdeck door opening procedures and require crewmembers to deploy the IPSB before opening the flightdeck door. The FAA proposed that the rule would apply to operation of transport category airplanes manufactured two years after the effective date of a final rule.

This rule adopts the proposal with limited changes to clarify the applicability of the part 25 design requirements for IPSBs to airplanes required by operating rules to have IPSBs, and to clarify that the requirement for part 121 operators' airplanes to be equipped with IPSB applies only to passenger-carrying transport category airplanes. The final rule also includes the ''line of sight'' design requirement as a part 25 design requirement, rather than an operating rule.

E. General Overview of Public Comments

The FAA received comments from 31 commenters, including Airlines for America (A4A); Association of Flight Attendants-Communications Workers of America, AFL–CIO (AFA–CWA); Aerospace Industries Association (AIA); Air Line Pilots Association, International (ALPA); Airbus Commercial Aircraft (Airbus); National Civil Aviation Agency of Brazil (ANAC); Allied Pilots Association (APA); The Boeing Company (Boeing); Coalition of Airline Pilots Association (CAPA); Cabin Ops Safety Risk Management, LLC (Cabin Ops); Embraer S. A. (Embraer); International Coordinating Council of Aerospace Industries Associations-Cabin Safety Working Group (ICCAIA–CSWG); Japan Civil Aviation Bureau (JCAB); Regional Airline Association (RAA); Southwest Airlines Pilots Association (SWAPA); Transport Canada Civil Aviation (TCCA); the Transportation Trades Department, AFL–CIO (TTD); United Airlines, Inc. (United); and several individuals.

Commenters generally supported the implementation of an IPSB in transport category airplanes but submitted requests for additional modifications. These requests generally address the following: compliance time; international harmonization; applicability; retrofit of IPSBs onto the existing fleet; part 129 airplanes; crew staffing and training concerns; changes to the ''reach through'' requirement; requests that the FAA clarify whether a malfunctioning IPSB would prevent the airplane's operation; questions regarding whether operators need to upgrade equipment and procedures that provide information to the flightdeck; and the cost and benefit evaluation.

In addition, the commenters addressed the draft ACs that accompanied the NPRM, as well as requests for specific details pertaining to compliance. The FAA's responses to these comments can be found at the Dynamic Regulatory System (*drs.faa.gov*), along with the finalized ACs.

IV. Discussion of Comments and the Final Rule

A. Compliance Time

In the NPRM, the FAA proposed to amend § 121.313 by requiring part 121 operators to have an IPSB on transport category airplanes manufactured two years after the effective date of the final rule.

ALPA, APA, CAPA, SWAPA, and TTD recommended that the compliance period should be reduced, so that the rule applies to airplanes manufactured one year (12 months) after the effective date of this final rule. They stated that doing so would align with the intent of Congress, and the text of the legislation, which mandated the FAA to issue an order by October 5, 2019. These commenters reasoned that a one-year compliance period would be enough, because manufacturers and airlines were provided with sufficient notice of the substance and urgency of the requirement when the legislation mandated in 2018 that the FAA issue an order within a year, and when ARAC issued the Report in 2020. These commenters further stated that aircraft manufacturers should already have preparations substantially underway to facilitate the installation of IPSB on newly-manufactured aircraft. There has

[8] See Flightdeck Secondary Barrier Tasking Notice (June 20, 2019), *www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3943.*

[9] See Flightdeck Secondary Barriers Working Group Report, available in the docket for this rulemaking and at *www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=4342.*

[10] See Aviation Rulemaking Advisory Committee (ARAC) Meeting (June 18, 2020), *www.faa.gov/regulations_policies/rulemaking/committees/documents/media/ARAC%20June%202020%20Meeting%20Packet.pdf.*

[11] As discussed in section II.C of the NPRM for this rulemaking (87 FR 46892).

been voluntary industry movement toward designing and implementing IPSB since 2003 (two major airlines [12] voluntarily installed IPSB on more than a hundred of their aircraft, and two aircraft manufacturers [13] had previously offered IPSB as standard equipment on newly-manufactured aircraft), so some manufacturers already possess procedures to implement IPSB installation. Additionally, a consensus-based technical standard exists in an RTCA document; [14] the industry has had access to the ARAC recommendations addressing implementation of the legislation for more than two years; and the FAA also published draft ACs that provided recommended standards and procedures.

In contrast, A4A, AIA, Airbus, Boeing, Embraer, the ICCAIA–CSWG, and RAA recommended that the FAA increase the compliance period to three years (36 months) after the effective date of the final rule. Airbus stated that, because the requirements would impact many aircraft types and cabin interior configurations, the industry would be required to develop many IPSBs, each with unique type design criteria in parallel, resulting in the need for significant resources from original equipment manufacturers (OEMs), the supplier community, and the FAA to review and certify these unique designs. These commenters pointed out that, because the proposed requirements and the draft ACs provided performance-based requirements, additional time would be needed to derive specific design criteria to comply with the requirements. These commenters then provided general overviews of the steps required to develop, certify, test, manufacture, and install a new IPSB; to train crew and maintenance staff; and, to establish the necessary supply chain—the completion of which would necessitate more than two years. A4A stated that a 2-year implementation timeframe could only be possible if IPSBs are ''plug-and-play'' installations with already-existing parts. Boeing further pointed out that the industry is experiencing additional manufacturing delays due to the COVID–19 pandemic. In addition, these commenters reiterated a study [15] cited in the Report that predicted three years would be required to fully design and implement IPSB on newly-manufactured aircraft. Embraer and the ICCAIA–CSWG also stated that design holders and applicants would not be able to begin their compliance efforts until the FAA publishes its final rule.

Embraer also pointed to a DOT NPRM, published in January 2020, as support for a three-year compliance time. This NPRM [16] would require carriers flying single-aisle aircraft to make changes to their lavatory on new aircraft to better accommodate the needs of disabled passengers. Embraer stated this NPRM proposed changes similar in complexity to the installation of an IPSB, yet DOT had proposed a three-year compliance date after the publication of the final rule to provide the time necessary for equipment and airplane manufacturers to make required changes to the interiors of their airplane and obtain the appropriate regulatory approvals for those changes. TCCA commented that two years seems optimistic to design, certify, and implement IPSB installation.

In summary, arguments for shortening the compliance time are mainly based on the mandate in the legislation, and the amount of time that has passed since then. Arguments for extending the compliance time point to the engineering challenges for different aircraft types, and to the fact that, until a final rule is enacted, manufacturers do not have criteria on which to base designs.

The FAA notes that two years is more time than was given for the mandatory retrofit of reinforced flightdeck doors. Also, equipment and airplane manufacturers are starting from a position of greater experience and design understanding, than existed when the flightdeck door requirements were enacted. Conversely, it is true that final design and manufacturing is not feasible until the final standards are adopted. This makes a one-year compliance time unrealistic. As was discussed in the NPRM, the FAA also considered—in proposing the two-year compliance time the variety of competing concerns and arguments that were presented during the ARAC activity, and the resulting recommendations for either 18- or 36-month compliance times, all as memorialized in the Report. Given the foregoing, the FAA continues to determine that a two-year compliance time, as proposed by the NPRM, is appropriate.

In a related comment, United stated that, because the FAA proposed to place the compliance deadline in part 121, the burden to comply with proposed § 121.313 would fall upon air carriers, when air carriers do not control the timeline for design and approval of new IPSB designs. United recommended the compliance deadline be placed in 14 CFR part 25, which would create incentives for part 25 applicants to complete their designs and demonstrate compliance in a timely manner.

The FAA's regulatory approach in this rulemaking is consistent with other, similar rulemakings requiring updates to the existing fleet.[17] In addition, since the requirement only applies to certain operations, *i.e.,* part 121, a generalized requirement in part 25 would not be appropriate. Ensuring that operators change their procedures to comply with § 121.584 require changes to part 121, and so adding the requirement to part 25 would not relieve operators from the burden of compliance. Therefore, consistent with the proposal, the applicability of the requirement for IPSB is provided in part 121.

B. International Harmonization

In the NPRM, the FAA proposed to amend § 121.313 by adding paragraph (l) that would require the installation of an IPSB ''that provides line-of-sight visibility between the flight door and the cabin'' for aircraft under part 121 operations.

ANAC submitted regulatory text that would move this line-of-sight specification from proposed § 121.313(l) to a new § 25.795(a)(4)(vi). ANAC cited section III.A.4 of the NPRM preamble, which stated that the visibility requirement would be evaluated during certification. ANAC reasoned that part 25 design standards would be a more appropriate part for the visibility requirement, and would also allow foreign countries to comply even if they do not have an equivalent operating rule requiring the installation of an IPSB.

The FAA agrees that the line-of-sight provision is more appropriate as a part 25 design standard in § 25.795 for the reasons the commenter provided.

[12] Delta Air Lines and United.

[13] Airbus and Boeing.

[14] DO–329, ''Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures,'' discussed in the NPRM.

[15] ''Secondary Cockpit Barriers OEM Working Group—Position on Proposed Secondary Barriers Installation for 14 CFR part 121 Aircrafts'' (June 13, 2019).

[16] *Accessible Lavatories on Single-Aisle Aircraft: Part 1 Notice of Proposed Rulemaking,* 85 FR 27 (2020). The changes proposed in the NPRM included such additions as grab bars, lavatory faucets with tactile information on temperature, attendant call buttons, and a modification to the lavatory door.

[17] See, *e.g.,* Amendment 121–289, *Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins* (52 FR 5422); Amendment 121–301, *Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes* (68 FR 45045); and Amendment 121–306, *Miscellaneous Cabin Safety Changes* (69 FR 62777). All of these regulations required physical design changes to newly-manufactured airplanes, using a two-year compliance time.

Therefore, the final rule regulatory text reflects this approach.

In the NPRM, proposed § 25.795(a)(4) stated that an IPSB must be installed to resist intrusion into the flightdeck whenever the flightdeck door is opened. ANAC recommended that the FAA rewrite this requirement as, ''[i]f an installed physical secondary barrier is installed, it shall resist intrusion into the flightdeck whenever the flightdeck is opened.'' ANAC stated that, because Brazil and several other countries adopt part 25 for harmonization purposes, the proposed rule would make the IPSB mandatory for these countries when neither ANAC, nor ICAO, has identified IPSB as a security problem. ANAC recommended that the IPSB mandate be better fitted in the operating regulations of each country.

The FAA agrees with the commenter's reasoning and has clarified the final rule by including the clause, ''if required by the operating rules'' to § 25.795(a)(4) in the final rule.

C. Exclusion of All-Cargo and Private-Use Airplanes

Consistent with section 336 of the Act, the FAA intended for the proposed requirements for IPSB to apply only to transport-category airplanes used in passenger-carrying operations under part 121.

A4A and Embraer recommended revising the regulatory text to specify that the requirements exclude all-cargo airplanes, such as by explicitly stating that airplanes used solely to transport cargo would not be required to comply with the proposed mandate for IPSB in § 121.313 by adding the words ''of passenger air carriers'' in proposed § 121.313(l). These commenters believed Congress, and ARAC, clearly intended to exclude all-cargo air carriers.

The FAA agrees with the commenters' rationale regarding the potential confusion in the proposed regulatory text regarding all-cargo airplanes, and adds the term ''passenger-carrying'' in § 121.313(l) to specify the requirements will apply to passenger-carrying transport category airplanes only, excluding all-cargo airplanes. This change aligns with the text of section 336, which specified ''passenger air carriers.''

Airbus also requested that the rule except ''private use transportation'' from compliance with proposed § 25.795(a)(4), because private use aircraft are usually configured with a cabin that cannot accommodate IPSB installation, and usually contain a low number of occupants who will be familiar with the aircraft. Airbus recommended that § 25.795(e), ''Exceptions,'' be amended accordingly.

The FAA does not agree with Airbus' request. As previously discussed, in the final rule, § 25.795(a)(4) references only those airplanes required by operating rules to have a flightdeck door. The only operating rule that requires an IPSB falls under part 121, and part 121 does not apply to private-use operations. Therefore, no change to proposed § 25.795(e) is needed and § 25.795(e) is finalized as proposed.

D. Requests That the FAA Mandate Retrofit

In the NPRM, the FAA proposed to apply the requirement for an IPSB only to new airplanes that are manufactured two years after the effective date of the final rule. The NPRM did not include a proposed retrofit requirement for those airplanes manufactured prior to that effective date.

ALPA, CAPA, APA, SWAPA, TTD, and an individual requested that the FAA extend the requirement for an IPSB to all aircraft conducting operations under part 121, including older airplanes, rather than to just newly-manufactured airplanes operating under part 121 as proposed. These commenters stated that not requiring an IPSB in existing aircraft under part 121 operations would become a known security vulnerability. These commenters stated that extending the requirements to the existing part 121 fleet would align with the intent of Congress in mandating an IPSB order be published by October 2019, because doing so would account for the many airplanes that have been manufactured without IPSB installation since that date. Additionally, JCAB, recognizing that the proposed regulations did not have a retrofit requirement, requested that the FAA provide how it evaluated the risks to already-manufactured aircraft.

A4A and United supported the implementation of the IPSB requirements to newly-manufactured aircraft only, as proposed in the NPRM, and stated that a retrofit requirement would not be warranted because current measures remain effective in addressing safety and security concerns. However, rather than being applicable to newly-manufactured aircraft operating under part 121, these commenters recommended that these requirements instead be applicable to newly type-certificated aircraft operating under part 121. A4A stated that application to all newly type-certificated aircraft would be supported by relevant data and the current multi-layered security environment for commercial aviation, including on-board security procedures. A4A and United further cited concerns that application to all newly-manufactured aircraft would result in non-commonality issues within their fleets, as well as increased cost burdens in training and maintenance.

Section 336 was explicit in mandating the FAA to require installation of IPSB on each newly manufactured aircraft. The purpose of this rulemaking is to implement the congressional mandate of IPSB on such aircraft.

In addition, a mandated retrofit is outside the scope of this final rule and would require an independent rulemaking action to implement. The FAA continues to monitor threats to aviation security in conjunction with the Transportation Security Administration (TSA) and other agencies. Should additional flightdeck security measures be deemed necessary, the FAA may propose additional rulemaking.

Similarly, the FAA also does not agree with the suggestion to make the requirements of this rule applicable only to newly-type certificated airplanes, because doing so would not meet the mandate from Congress. The legislation was explicit in that it mandates the FAA to require installation of IPSB on each new aircraft.

The FAA notes that it, and other U.S. Government agencies, use a variety of tools to continuously assess potential risks to aviation safety and security.

E. Requests To Include Airplanes Operating Under Part 129

In the NPRM, the FAA did not propose to apply the requirement for IPSB to airplanes operating under part 129.

ALPA, APA, CAPA, SWAPA, and TTD requested that the requirements be extended to any aircraft operating under part 129 within the United States, and to part 129 air carriers who operate solely outside the United States but with aircraft registered in the United States. These commenters stated that this extension would follow the same rationale that resulted in the FAA extending the requirement to install hardened flightdeck doors from part 121 to part 129. They reasoned that, while the FAA is bound by the minimum requirements of the legislation in publishing an IPSB requirement, the FAA is not constrained by the legislation when exercising its general Title 49 statutory powers to regulate aviation safety in the public interest, and therefore could establish additional IPSB requirements beyond those expressly required by Congress.

As previously noted, the purpose of this final rule is to implement section 336 of the Act, which limited the applicability of the mandate for IPSB to airplanes manufactured for delivery to passenger air carriers operating under part 121. Moreover, as noted in the NPRM, there currently is no international standards organization, such as ICAO, proposing an IPSB; nor are other civil aviation authorities mandating, or proposing to mandate, an IPSB.

Moreover, extending these requirements to part 129 was not proposed in the NPRM, and is therefore out of scope for this final rule. Accordingly, here is no change and the rule is adopted as proposed in this matter.

F. Crewmember Staffing and Training Concerns

Several commenters sought changes to the proposal to address crewmember staffing and training. In the NPRM, the FAA did not propose any requirements regarding crewmember staffing or training.

AFA–CWA and Cabin Ops recommended the FAA add a crew staffing requirement to this rule, by increasing the required number of flight attendants from one to two, for airplanes with 19 to 50 passenger seats. Currently, for airplanes with a passenger capacity from 19 to 50, only one flight attendant is required.[18] These commenters stated that when the flightdeck door is opened to allow a flightcrew member to leave the flightdeck—for example, to use the lavatory—no crewmember is in the cabin for the period of time that the flightcrew member is away, because the lone flight attendant must enter the flightdeck. They suggest that having a second, required cabin crewmember would maintain at least one crewmember in the cabin.

Cabin Ops also questioned whether the FAA should still require two persons to be on the flightdeck during times where a pilot leaves the flightdeck. The commenter stated that this was not realistic, and suggested that the FAA state in regulations and policy that each passenger air carrier should be required to conduct a safety risk assessment when applying the operational procedures to small regional aircraft.

In contrast, RAA stated that implementation of IPSB would provide an additional layer of security, whereas requiring two flight attendant represents increased long-term costs for certain small air carriers.

The FAA does not agree with the recommendation to increase flight attendant staffing, nor with Cabin Ops' suggestion that an IPSB is incompatible with the requirement for two persons on the flightdeck at all times.[19] Historically, aircraft with a seating capacity of 20 to 50 passengers have successfully and safely operated with one flight attendant. The FAA currently has no data to support mandating two flight attendants on these aircraft. In addition, the installation of an IPSB will isolate the flightdeck door from the cabin in times when it must open. Finally, adding a new crew requirement is outside the scope of the NPRM. The FAA expects that each air carrier, in accordance with part 5, will use its approved processes within its Safety Management System (SMS)[20] to identify and control risks identified in its operation.

TTD requested the rule require training on IPSBs for flight attendants.

The FAA does not agree that a specific training requirement is necessary for this rule. When new equipment is installed on an aircraft, § 121.421, ''Flight attendants: Initial and transition ground training,'' requires flight attendants to be trained on that equipment.

Finally, JCAB, noting the importance of the IPSB only being deployed for a short length of time, asked that such be specified in the operating manual.

Given that the purpose of an IPSB is to slow a security threat so that the flightdeck door can be closed, the FAA does not agree that specifying a maximum duration that the IPSB can be deployed is necessary.

G. Requests To Exclude Smaller Transport Category Airplanes

In the NPRM, the FAA proposed to apply the IPSB requirement to all transport-category airplanes that are required to have a flightdeck door, regardless of the airplane's size. The FAA also asked for comment, including supporting data, regarding whether aircraft used for flights of shorter distance or duration should be excluded from the requirement, due to the decreased likelihood of the flightdeck door being opened during such flights.

In response, Embraer, the ICCAIA–CSWG, and RAA asked the FAA to consider excluding from the final rule smaller transport category airplanes with flights of shorter duration. APA, Embraer, and RAA also supported excluding smaller transport category airplanes from this final rule, regardless of the flight duration.

The ICCAIA–CSWG and Embraer, stated that, although short duration flights can be associated with any size of airplane, short flights are to be expected with smaller transport category airplanes, which have a more limited maximum flight duration. These commenters also stated that smaller transport category airplanes have confined interior spaces, with lavatories, galleys, and wardrobes located close to the flightdeck, leaving a very small space for changes to aircraft design. Finally, these commenters stated the design challenges created by the proposed IPSB requirement due to increases in cost and weight, would be more significant for smaller transport category airplanes as compared to the larger airplanes.

A4A, Embraer, and the ICCAIA–CSWG stated that on smaller transport category airplanes, the combination of an Improvised Non-Installed Secondary Barrier (INSB) with procedures and crewmembers training would provide appropriate protection during flightdeck door transition.

In contrast, ALPA, APA, CAPA, and AFA–CWA agreed with the FAA that there was no obvious design parameter, such as passenger capacity or airplane gross weight, which correlated with short flights.

Prior to publication of the NPRM, the FAA tasked ARAC to provide information that could be applied to determine if a certain size of aircraft could be exempted from the requirement to have an IPSB. ARAC did not provide a recommendation on that topic. The NPRM included a similar request for information; however, no specific data or proposed criteria were submitted. Accordingly, while commenters made a number of assertions regarding design challenges, neither the commenters nor ARAC provided data to support a change to the proposal to account for aircraft size or flight duration.

H. Reach-Through Requirement

In the NPRM, the FAA proposed in § 25.795(a)(4)(iv) that the IPSB must prevent a person from reaching through it and touching the flightdeck door.

Airbus, Boeing, and the ICCAIA–CSWG recommended that the FAA change the phrase ''touching the flightdeck door'' to incorporate different words, including ''grasping,'' ''blocking,'' and ''grabbing'' the flightdeck door. They argued that such changes would be more inclusive of the

[18] See § 121.391, ''Flight attendants.''

[19] See, *e.g.,* 14 CFR 121.313(g), 121.547, and 121.587.

[20] See AC 120–92, ''Safety Management System for Aviation Service Providers.''

ways a person can touch a flightdeck door.

The FAA does not agree that the suggested words are more inclusive. Any of the proposed words would need to be defined, whereas the word ''touch'' is well-understood and more conservative than the recommended words. As such, § 25.795(a)(4)(iv) will remain as proposed in the final rule.

TCCA asked the FAA if it will mandate be a minimum distance between the IPSB and the flightdeck door.

The FAA declines to impose a specified minimum distance between the IPSB and the flightdeck door, because the requirements of this rule are performance-based.

I. Master Minimum Equipment List

In the NPRM, the FAA did not propose any requirements regarding the IPSB and the Master Minimum Equipment List (MMEL).[21]

A4A, Boeing, TCCA, and United commented that the FAA should allow operators Minimum Equipment List (MEL) relief should the IPSB malfunction or become inoperable. They suggested that passenger air carriers should be allowed to temporarily operate aircraft with an inoperable IPSB. These commenters also suggested that the final rule ensure that operators be able to obtain MEL relief for inoperable IPSBs. A4A and United also suggested that in addition to providing MEL relief in the final rule, that the FAA should issue an MMEL Policy Letter that allows for aircraft operation with an inoperative IPSB.

For purposes of the airplane's potential deferral under its MEL or MMEL, and its continued compliance with § 121.584(a), the FAA does not consider an IPSB to be ''essential for safe operations under all operating conditions,'' in accordance with § 121.628(b)(1). Therefore, the IPSB may be included in an operator's MEL. Finally, in accordance with existing processes, the FAA will evaluate whether an MMEL Policy Letter is necessary.

J. Adequacy of Current Devices and Procedures

In the NPRM, the FAA intended proposed § 121.584(a)(3) to prohibit an operator from unlocking or opening the flightdeck door during flight unless there was an approved audio procedure and an approved visual device to verify that the IPSB, if an IPSB is required to be installed, has been deployed.

Embraer and the ICCAIA–CSWG raised concerns that this requirement could be interpreted as requiring the flightcrew to see—from the flightdeck—that the IPSB is installed, whereas some aircraft configurations may render it impossible to see from the flightdeck that the IPSB is deployed.[22] These commenters stated that, if proposed § 121.584(a)(3) were interpreted too strictly, it would require operators to install a system inside the flightdeck to inform the flightcrew that the IPSB is deployed, thus creating an unnecessary burden for those aircraft configurations. These commenters stated that this was not recommended in the Report, nor were the costs of a new visual system accounted for in the NPRM.

Boeing commented that the FAA should have emphasized in the NPRM that compliance with proposed § 121.584(a)(3) can be satisfied with audio and visual devices present in current airplanes and associated crew procedures, without the need for additional flightdeck indications such as an electronic flightdeck indication that the IPSB is deployed.

As explained in the NPRM, the FAA proposed § 121.584(a)(3) to make sure that, if an IPSB is installed, it is deployed any time the flightdeck door is opened during flight. However, this rule does not require the installation of any specific system inside the flightdeck to inform the flight crew that the IPSB is deployed and secured. Operators will work with their FAA oversight office to develop procedures for opening the flightdeck door for different aircraft configurations. The FAA anticipates that operators will continue to utilize various methods similar to their current approved procedures regarding the opening of the flightdeck door (*e.g.,* audio and visual devices present in current airplanes and associated procedures).

K. Cost and Benefit Evaluation

The FAA provided a Preliminary Regulatory Impact Assessment for the proposed requirements in the NPRM. A4A stated that the FAA should have considered, in its cost-benefit analysis, the technical difficulties and the on-going cost implications for the requirement to maintain and operate aircraft with functional IPSB. A4A cited the challenges of redesigning interiors on smaller aircraft with space, monument[23] limitations, and potential maintenance issues for IPSB due to their moving parts, and significant training costs for crewmembers who must work across a fleet with mixed IPSB equipage.

The FAA recognizes the technical difficulties of installing IPSBs on some smaller airplanes, which might increase costs. The FAA relied on the ARAC's $35,000 per airplane estimate, which included the entire range of affected airplane models, so the FAA's estimate of the overall fleet remains valid. The FAA also estimates that training costs per employee for a simple device such as an IPSB is very low (training time of approximately 30 minutes). Once an employee is trained on a particular IPSB model, the FAA does not believe there will be significant training costs for training on additional models, due to their similarity of function.

RAA suggested that the FAA consider excluding operators of short duration flights from the final rule as a means to reduce economic burdens on small entities. The commenter cited the Report which recognized that, for short flights, the flightdeck door may be less likely to be opened, in which case the IPSB would not provide the intended benefit. The commenter also referenced a DOT NPRM[24] regarding accessible lavatories on single-aisle aircraft applicable to single-aisle aircraft with 125 or more passenger seats, because DOT tentatively recognized that aircraft with fewer than 125 seats tend to be shorter-haul aircraft, with shorter flight times, where it may not be cost-beneficial to require interior improvements to lavatories, and the commenter extended this rationale to the flightdeck door. The FAA addresses this comment in the section titled ''Regulatory Flexibility Act,'' under the subsection titled ''Significant Issues Raised in Public Comments.''

In the NPRM preamble section titled ''Proposed Exception from Incompatible Regulations,'' the FAA proposed that, during its certification of the IPSB installation, the requirements of § 25.365 would not apply to IPSBs in the deployed configuration.

TCCA stated that the proposed regulation was not incompatible with the provisions of § 25.365, ''Pressurized compartment loads.'' TCCA questioned the utility of the expense of building a decompression-resistant IPSB when the Report estimated the probability of decompression to be 10^{-9} when the IPSB is deployed. If the FAA's intention was to grant exemption from § 25.365 when an IPSB is deployed, then TCCA recommended that the FAA justify that intention based on a cost-benefit argument instead of incompatibility,

[21] See § 121.628, ''Inoperable instruments and equipment.''

[22] Embraer and the ICCAIA–CSWG used the word ''installed,'' but the FAA infers that they meant ''deployed.''

[23] Functional units such as galleys, lavatories, are called ''monuments.''

[24] Ibid, 85 FR 27 (2020).

and also specify the estimated cost differential of a decompression-resistant IPSB.

The FAA agrees that ''compatibility'' may not be the most accurate term to describe how the FAA makes compliance findings with § 25.365 when the IPSB is deployed. A better term is ''applicability.'' As noted in the NPRM, the FAA has long considered that § 25.365 does not apply to interior features that have transient configurations (such as a lavatory door) when a door is open. Because deployment of the IPSB is also transient, the FAA has determined that § 25.365 is not applicable to the IPSB when deployed. However, should IPSB designs be proposed that are intended to remain in place, § 25.365 would be applicable.

Airbus recommended that the FAA increase its estimated cost for each IPSB unit from $35,000 to $50,000, because if the cost included recurrent and non-recurrent costs, then it should cover development expenses (*i.e.,* engineering costs, stress and analysis, certification testing and witnessing, different prototypes for different aircraft configurations) and supplier development costs.

The FAA does not agree with this recommendation. The cost analysis in the regulatory evaluation for the proposed rule included the $9 million nonrecurring engineering costs estimated by ARAC. That estimate would have included all costs that Airbus characterizes as development costs, and includes assumed up-front costs for initial aircraft design, partial design reuse for remaining models, and unique installations for each aircraft model.

In the NPRM, the FAA divided total losses ($35.7 billion) by 50-year cumulative present value costs ($236.5 million) to derive an annual probability of an attempted attack of 0.66 percent. An individual commenter stated that this calculation was not correct, that dividing a loss by a 50-year cost did not yield an annual probability, but 0.66 percent spread over many years. The commenter suggested that the correct calculation to assess the break-even annual probability of an attempted attack would be to divide total losses ($35.7 billion) by annualized costs ($20.3 million), leading to a probability of an attempted attack of 0.057 percent per year.

The FAA does not agree with the suggestion that the break-even analysis is incorrect. An annual probability of 0.66 percent translates to one successful attack every 151 years (1/151 = 0.0066 or 0.66 percent). The commenter, in his own comment, stated that ''even if there were only one terrorist hijacking attack in one hundred and fifty years (annual attack probability of 0.7 percent) . . ., secondary barriers are cost effective.'' The FAA points out that this 0.7 percent estimate is effectively identical to the FAA's estimate of 0.66 percent.

In addition, the individual commenter took exception to the FAA characterization, in the Regulatory Impact Analysis section of the NPRM, of the commenter's quantification of benefits in the Briefing Note (Stewart and Mueller, 2019) [25] as ''problematic.'' The commenter stated that any quantifiable risk involves some subjectivity and uncertainty in predicting rates of disruption for security measures.

The statement may be true, but that does not preclude the FAA from determining that the subjectivity and uncertainty is so great as to make accurate estimates problematic; for example, the airport disruption rate for airport checkpoint screening of 15 percent estimated in the Briefing Note compared to a disruption rate of 50 percent estimated by other researchers.

Another individual also stated this rule would have no possible break-even benefit, given the finding of the RIA that the annual probability of an attempted breach of the flight compartment door is 0.66 percent while costing travelers $236.5 million per year. Using worldwide data for commercial flights, the commenter suggested that the annual probability of a 9/11-type terrorist attack implied by the break-even analysis was orders of magnitude too high.

The FAA notes that $236.5 million is not the yearly cost of the rule; rather, it is the total present value cost of the rule over the 49-year estimation period, from 2023 to 2072. Table 1 of the regulatory evaluation shows this, and also shows that the corresponding annualized cost is $20.7 million (at a 7 percent discount rate). In addition, the FAA does not agree with the use of all commercial flights worldwide as basis for consideration. A 9/11-type attack would likely require hijacking of a large transport category airplane. Moreover, the focus of the proposed rule and the regulatory analysis is necessarily on transport category airplanes taking off and landing in the United States. Accordingly, the commenter's use of all commercial flights worldwide, including flights with non-transport category aircraft, leads to estimates of excessively low probabilities.

L. Miscellaneous

TCCA and an individual expressed concern that deployment of the IPSB would signal that the flightdeck door was about to be opened, which might have a negative impact on security. TCCA noted that providing some visual obscuration might address this concern, but could conflict with the line-of-sight requirement.

The FAA notes that current procedures for opening the flightdeck door could also provide a similar signal. In that vein, the IPSB enhances flightdeck security, since this rule mandates that the flightdeck door will not be unlocked or opened until after the IPSB is deployed.

In the NPRM, the FAA proposed static load requirements in § 25.795(a)(4) for the IPSB when it is deployed. Airbus requested more details on how and where to apply the requested load on the IPSB.

The FAA notes that the load must be applied at ''the most critical location,'' and that this requirement is performance-based. The applicant for a design approval of an IPSB will have to define the critical locations for the load. However, the FAA provided draft guidance for applicants on this topic in AC 25.795–10, ''Installation of Physical Secondary Barriers for Transport Category Airplanes,'' which is in the docket for this rulemaking. This AC states that critical locations should include the IPSB center and the IPSB latch area. This AC will be finalized with the publication of this rule.

TCCA asked whether the aircraft size and weight criteria from § 25.795(b) would be applicable to the proposed § 25.795(b)(4).

The aircraft size and weight criteria in paragraph (b) of § 25.795 are not relevant to the flight deck door requirements of paragraph (a); and, as this rule adds design requirements for IPSB to paragraph (a), the aircraft size and weight criteria in paragraph (b) continue to be inapplicable.

Embraer recommended an edit to the NPRM preamble, under the section titled ''Proposed exception from incompatible regulations,'' regarding a sentence which stated that, because the proposed rule would not require that the IPSB be deployed during taxi, takeoff, and landing, the amount of time that the IPSB is deployed should be ''very brief in comparison to the duration of the flight.'' Embraer recommended that the sentence should

[25] Mark G. Stewart & John Mueller, ''Security Risk and Cost-Benefit Assessment of Secondary Flight Deck Barriers,'' Centre for Infrastructure Performance and Reliability, The University of Newcastle, Australia (2019), *nova.newcastle.edu.au/vital/access/manager/Repository/uon:35881.*

end at ''very brief'' to give flexibility for the operator to define, according to its operating procedures, the amount of time that the IPSB is deployed.

The FAA confirms that it was the agency's intent to convey that operators have flexibility to define the amount of time that the IPSB is deployed.

Three individuals commented that a modular, lightweight, non-porous device would be the fastest and most cost-effective way to install a barrier on existing airplanes.

The FAA notes that the requirements in this final rule are performance-based standards, allowing for various designs.

An individual commenter recommended the FAA require that both the main flightdeck door and the IPSB not be able to be opened at the same time.

This recommendation would likely involve significant design complexity, and cause delay while the FAA conducts additional risk analysis. The FAA has not included this recommendation in the final rule.

V. Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (''Modernizing Regulatory Review''), direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). The current threshold after adjustment for inflation is $177,000,000 using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the impacts of the final rule. The FAA provides a detailed Regulatory Impact Analysis in the docket of this rulemaking.

In conducting these analyses, the FAA determined that this final rule (1) has benefits that justify its costs; (2) is an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866; (3) will not have a significant economic impact on a substantial number of small entities; (4) will not create unnecessary obstacles to the foreign commerce of the United States; and (5) will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

A. Regulatory Impact Analysis

1. Benefits

During many flights, the flightdeck door must be opened for lavatory breaks, meal service, rest periods, crew changes, etc. During the time of door transition, the open flightdeck has some degree of vulnerability to attack. During these openings, an attack on the flightdeck could happen quickly; this could leave insufficient time for passengers and cabin crew to react. However, there have been no breaches of a flightdeck since the September 11, 2001 terrorist attacks.

The purpose and functional benefit of IPSBs, which Congress directed the FAA to require by mandate, is to enhance the flightdeck security procedures of § 121.584 by slowing the time by which an unauthorized person could reach the flightdeck by at least the time required to open and reclose the flightdeck door.[26]

A Briefing Note [27] (Stewart and Mueller, 2019) provided to the ARAC Flightdeck Secondary Barrier Working Group by one of the members, applied an engineering technique—reliability analysis—to the TSA's ''Layers of Security'' [28] to estimate the benefits of secondary barriers in reducing the vulnerability of the U.S. commercial fleet to a 9/11-like terrorist attack. This approach requires estimates of ''disruption rates'' for the various TSA layers of security and also requires an estimate of the probability of a 9/11-like terrorist attack. Estimates of security layer disruption rates are very difficult to make and, accordingly, are highly uncertain. For example, Stewart and Mueller estimate a disruption rate of 15% for the TSA Airport Checkpoint Screening security layer, whereas Martonosi and Barrett [29] estimate the disruption rate to be 50%. Estimating the probability of a 9/11-like terrorist attack is also difficult since there has been only one such event. Consequently, estimating quantified benefits of the IPSB requirements is problematic. Accordingly, the FAA does not endorse the analysis or conclusions of this Briefing Note.

However, based on estimates of costs of the 9/11 attacks, the FAA has conducted a break-even analysis. An authoritative study [30] of the costs to New York City of the 9/11 attacks provides an estimate of $26.6 billion in physical capital and short-term earnings losses,[31] which amounts to $38.86 billion in 2021 dollars.[32] What remains is to estimate the cost of the 2,763 lives lost in the 9/11 attacks. Using DOT's $11.8 million dollar estimate of the Value of Statistical Life (VSL),[33] that loss is $32.60 billion, which added to the physical capital and earnings losses, makes the total New York City costs to be $71.46 billion. The FAA estimates the cost of a single-airplane 9/11-type attack (and the value of an averted attack) to be half that at $35.73 billion. The break-even analysis estimates what the annual probability of a single-airplane 9/11-type attack must be in order for the final rule to break even, *i.e.,* for the benefits of the final rule to be equal to its costs. Dividing the $236.5 million cost [34] of the proposed rule by the $35.7 billion averted attack value yields the breakeven annual probability of an attack to be 0.66%. Multiplying

[26] Report, pp. 33–34.

[27] Mark G. Stewart & John Mueller, ''Security Risk and Cost-Benefit Assessment of Secondary Flight Deck Barriers,'' Centre for Infrastructure Performance and Reliability, The University of Newcastle, Australia (2019), *nova.newcastle.edu.au/vital/access/manager/Repository/uon:35881*.

[28] ''Inside Look: TSA Layers of Security,'' *www.tsa.gov/blog/2017/08/01/inside-look-tsa-layers-security*.

[29] Susan E. Martonosi & Arnold Barnett. 2006. ''How Effective is Security Screening of Airline passengers?,'' Interfaces 36(6): 545, 550.

[30] Jason Bram, James Orr, and Carol Rapaport. 2002. ''Measuring the Effects of the September 11 Attack on New York City,'' Federal Reserve Bank of New York *Economic Policy Review* 8:2 (November).

[31] $21.6 bn in physical capital losses plus the $5 bn average of $3.6–$6.4 bn in short-term earnings losses.

[32] $26.6 bn inflated by ratio of 2021 and 2002 GDP Price Deflators. Source: U.S. Bureau of Economic Analysis, ''Table 1.1.4 Price Indexes for GDP.'' Click ''Modify'' icon and refresh table with first and last years of period.

[33] U.S. Department of Transportation, Office of Transportation Policy. ''Departmental Guidance on the Value of a Statistical Life,'' *www.dot.gov/policy/transportation-policy/economy*. Effective Date: March 24, 2022.

[34] Assumes 7% discount rate.

this calculated breakeven probability of attack times the $35.7 billion averted attack value necessarily returns the $236.5 million break-even expected value of averting an attack. Such a breakeven analysis implicitly assumes that the proposed rule is completely effective. Thus, here the final rule breaks even, under the assumptions that the probability of an attempted attack is 0.66% per year and that the rule will be 100% effective in thwarting any such attack.

2. Costs

The FAA uses the cost estimate of $35,000 provided by the Report for the purchase and installation of an IPSB. Training costs for pilots and flight attendants are estimated using training hours from the Report and the opportunity costs of pilots and flight attendants estimated from annual hourly wages from the Bureau of Labor Statistics. Costs are estimated in two stages. First-stage costs are calculated for the 25-year period, 2023–2047, during which the fleet operating under part 121 gradually becomes fully equipped with IPSBs. Second-stage costs are calculated to include in the analysis a full 25-year airplane life cycle (2048–2072) for which the entire part 121 fleet is equipped with IPSBs.

(a) Stage One Costs

The FAA estimates the rule will begin to apply to new airplanes operating under part 121 by the end of 2023. The FAA uses its Aerospace Forecast 2020–2040 to estimate the annual increase in the passenger fleet operating under part 121.[35] The sum of the forecast increase in the fleet and the number of retirements determines the annual increase in new airplanes operating under part 121 and therefore the annual number of IPSBs that will be installed in airplanes destined for part 121 operations. Annual retirements are estimated assuming a retirement rate (3.57%) that is consistent with the 2020–2040 forecast of the number of airplanes in part 121 operations. A similar analysis is done to determine the IPSB training costs of pilots and flight attendants, except that training costs apply to current as well as future pilots and flight attendants.

(b) Stage Two Costs

As previously noted, second-stage costs are calculated in order to include a full 25-year airplane life cycle (2048–2072) for which the entire part 121 fleet is equipped with IPSBs. For this second stage, the FAA is well beyond the terminal date of the FAA forecast and, accordingly, assumes a constant growth rate for the part 121 fleet. The constant growth rates for pilots and flight attendants are as before.

(c) Other Potential Costs

Stewart and Mueller also discuss potential added risks associated with IPSBs, including, for example, that crew vigilance and responsiveness might be reduced in the presence of an IPSB. The FAA notes that it does not find significant downsides to the installation of the ISPBs if all other relevant regulations are complied with.

(d) Total Costs of the Rule

Table 1 summarizes the total costs of the rule by combining stage one and stage two costs. At a 7 percent discount rate, the present value total costs of this rule are $236.5 million with annualized costs at $20.3 million. At a 3 percent discount rate, the present value total costs of this rule are $505.0 million with annualized costs at $ 29.0 million.

TABLE 1—TOTAL COSTS OF SECONDARY BARRIERS RULE

[$ millions]

	Present value costs (7%)	Annualized costs (7%)	Present value costs (3%)	Annualized costs (3%)
2023–2047	$186.0	$16.0	$296.5	$17.0
2048–2072	50.4	4.3	208.6	12.0
2023–2072	236.5	20.3	505.0	29.0

[1] Present values discounted to 2021 at 7% and 3% discount rates.
[2] Columns may not sum to totals due to rounding.

3. Discussion of Alternatives

(a) Alternative 1—Extending the Rule To Include Foreign Carriers Operating Under Part 129 [36]

At this time, neither other civil aviation authorities nor ICAO have identified secondary barriers as a security priority. Therefore, extending the IPSB requirement to foreign air carriers would be without the agreement of other civil aviation authorities. After the events of September 11, 2001, the FAA did apply the hardened flightdeck door requirement to foreign air carriers, but the need for hardened flightdeck doors was recognized internationally and the FAA's standards were reflected in the requirements of most other countries. The FAA estimates that by the time IPSBs are fully adopted by part 121 operators, 35% of part 121 and part 129 operating commercial passenger aircraft will not have an IPSB.

(b) Alternative 2—Exempting the Rule for Short Duration Flights

ARAC recognized that, for short flights, the flightdeck door may not need to be opened, in which case the IPSB would not provide the intended benefit. However, ARAC was unable to identify any airplane design parameter, such as passenger capacity or airplane gross weight that correlates with short flights. Also, the range of all the airplane models that will be affected by this rule exceeds the maximum flight length at which opening the flightdeck door is unlikely. Therefore, this rule does not address an airplane's size or range, or duration of flight.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010), requires Federal agencies to consider the effects of the

[35] FAA Forecast FY 2020–2040, Table 21: ''US Mainline Air Carriers—Passenger Jet Aircraft,'' & Table 25: ''Regional Air Carriers—Passenger Aircraft.'' Since some regional air carriers operate under part 135 as well as part 121, the estimate of airplanes operating under part 121 is improved by excluding airplanes with less than 20 passenger seats. Estimates for the period 2040–2047 are made assuming the growth rate (1.74%) implied by the FAA part 121 airplane numbers for 2030 and 2040.

[36] Part 129 governs foreign operators who operate either within the United States, or who operate solely outside the United States, but with airplanes registered in the United States.

regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The FAA published an Initial Regulatory Flexibility Analysis (IRFA) in the proposed rule to aid the public in commenting on the potential impacts to small entities. The FAA considered the public comments in developing the final rule and this Final Regulatory Flexibility Analysis (FRFA). An FRFA must contain the following:

(1) A statement of the need for, and objectives of, the rule;

(2) A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

(3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

(5) A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

(6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statues, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

1. Need for and Objectives of the Rule

This rule is needed to satisfy the requirements of section 336 of the FAA Reauthorization Act of 2018. This law requires that the FAA issue an order for the installation of Secondary Cockpit Barriers on each new airplane that is manufactured for delivery to a passenger air carrier in the United States operating under part 121.

2. Significant Issues Raised in Public Comments

No issues were raised in direct response to the IRFA. However, in comments to the NPRM, some commenters suggested that the FAA consider excluding smaller transport category airplanes from the IPSB requirement as small transports typically have a limited flight duration. As recognized by the ARAC, for short flights the flightdeck door may not need to be opened, in which case the IPSB would not provide the intended benefit. Two commenters stated that on smaller airplanes, a combination of an Improvised Non-Installed Secondary Barrier (INSB) and establishment of procedures and crewmembers training would provide appropriate protection during flightdeck door transition. Some commenters also stated that smaller transport category aircraft have confined interior spaces with lavatories, galleys, and wardrobes close to the flightdeck, leaving a very small space for changes to aircraft design. These commenters also stated that the design challenges created by the IPSB rule, due to increases in cost and weight, are more significant for smaller transport category airplanes as compared to larger transports. RAA specifically suggested that the FAA consider excluding operators of short duration flights from the final rule as a means to reduce economic burdens on small entities.

References to cost impacts on small transport airplanes are relevant here to the extent that they are operated by small operators. Excluding small operators from the rule is infeasible because no operator would designate airplanes for short flights only and even if they did, the FAA could not be assured that they would not be used for longer flights where an IPSB could be safety-enhancing. The magnitude of the economic impact on small entities is estimated in section 5 below. Even though the FAA makes a very conservative estimate there by assuming immediate installation of IPSBs, at $35,000 apiece, on a 2% revenue criterion, the FAA shows the economic impact to be insignificant, ranging from 0.06% to 1.13% of revenues for small operators. If $35,000 is deemed too low because confined space significantly raises the IPSB cost for small operators, that estimate can be stress tested by doubling the IPSB cost estimate to $70,000. This test increases the range of economic impact from 0.12% to 2.26%. With just 2 of the 11 operators for which the FAA has data showing an impact just over 2%, the FAA still finds an insignificant impact on a substantial number of operators.

3. Responses to SBA Comments

The Chief Counsel for Advocacy of the SBA has not filed any comments in response to the proposed rule.

4. Small Entities to Which the Rule Will Apply

The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines ''small business'' to have the same meaning as ''small business concern'' under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to define ''small business'' by issuing regulations.

SBA has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS).[37] These size standards generally define small businesses based on the number of employees or annual receipts.

NAICS has classified certificate holders operating under part 121 in either NAICS 481111, Scheduled Passenger Air Transportation or NAICS 481211, Nonscheduled Chartered Passenger Air Transportation, or both. Since the size standard for either industry is the same at 1,500 employees, it is of no concern in which of the two industries they are classified.

In the regulatory impact analysis for this rulemaking, a total of 43 operators operating under part 121 were identified in the FAA's National Vital Information Subsystem (NVIS) data base. Table 2 lists 23 of these operators identified in this study as having less than 1,500 employees and therefore potentially subject to consideration under the Regulatory Flexibility Act. Twelve of these operators were identified as small based on airline employment data (Table 2, col. 3) from the DOT Bureau of Transportation Statistics.[38] The remaining eleven operators were identified as having less than 1,500 total employees on the basis of their numbers of operations and maintenance employees (also from the NVIS database). One of the small operators, Piedmont Airlines, was excluded from the regulatory flexibility analysis as it is a wholly-owned subsidiary of American Airlines. Since the remaining 22 small

[37] Small Business Administration, Table of Size Standards (2019). *www.sba.gov/document/support-table-size-standards.*

[38] *Transtats.bts.gov.*

operators are more than 50% of the part 21 operator population, the FAA estimates that a substantial number of small firms are affected by this rulemaking.

TABLE 2—DATA FOR REGULATORY FLEXIBILITY ANALYSIS OF SECONDARY BARRIERS RULE

Part 121 operator name	All ops emp (NVIS data)	No. emp (BTS data)	Flt attendants	Pilots	No. aircraft	2015 $ mn	2016 $ mn	2017 $ mn	2018 $ mn	2019 $ mn	Avg rev 2015 –2019	IPSB cost ($ 000)	IPSB cost/ avg rev (%)	Notes
AERODYNAMICS INC.	37	.....	10	15	2	.....	.....	.....	.....	.....	.....	70	.....	Operation certificate terminated Oct. 2020.
AIR WISCONSIN AIRLINES LLC.	1,120	.....	289	571	67	536	443	248	.....	.....	409	2,345	0.57	
CARIBBEAN SUN AIRLINES INC.	104	158	51	20	7	.....	.....	34	37	38	27	245	0.90	Doing business as World Atlantic Airlines.
CHAMPLAIN ENTERPRISES INC.	713	.....	170	330	37	.....	115	135	.....	.....	122	1,295	1.06	Operates mainly through subsidiary CommutAir, which operates as United Express.
COMPASS AIRLINES LLC.	1,299	1,438	469	531	48	177	235	236	241	228	223	1,680	0.75	Shut down due to Covid.
CORVUS AIRLINES INC.	156	.....	29	61	10	.....	.....	.....	.....	.....	.....	350	.....	Bankrupt July 2020.
EASTERN AIRLINES LLC.	146	196	88	30	8	.....	56	28	.....	.....	42	280	0.67	
ELITE AIRWAYS LLC.	139	130	40	43	13	.....	.....	.....	134	117	126	455	0.36	
EMPIRE AIRLINES INC.	332	.....	14	134	60	.....	.....	.....	.....	.....	.....	2,100	.....	
GOJET AIRLINES LLC.	918	977	292	487	43	204	227	238	257	265	238	1,505	0.63	Trans States Holding WOS.
GULF AND CARIBBEAN CARGO INC.	79	122	0	41	19	.....	.....	.....	.....	.....	.....	665	.....	
HILLWOOD AIRWAYS, LLC.	49	35	14	9	2	.....	.....	.....	.....	.....	.....	70	.....	
KAISERAIR INC	94	68	15	38	7	.....	.....	.....	.....	.....	.....	245	.....	
KEY LIME AIR CORPORATION.	123	.....	9	38	35	.....	.....	.....	.....	.....	.....	1,225	.....	
MIAMI AIR INTERNATIONAL INC.	249	351	131	67	6	108	105	119	118	112	112	210	0.19	Liquidated May 2020.
OMNI AIR INTERNATIONAL LLC.	758	1,045	302	246	14	360	336	358	493	541	418	490	0.12	
PENINSULA AVIATION SERVICES INC.	80	.....	18	17	6	.....	.....	.....	.....	.....	.....	210	.....	Saudi Arabian A/C refueling.
PIEDMONT AIRLINES INC.	1,096	.....	231	530	60	.....	.....	.....	.....	.....	.....	2,100	.....	WOS of American Airlines.
SEABORNE VIRGIN ISLAND INC.	96	.....	17	29	7	.....	.....	.....	.....	.....	.....	245	.....	Subsidiary of Silver Airways.
SIERRA PACIFIC AIRLINES INC.	43	35	12	11	2	.....	.....	.....	.....	.....	.....	70	.....	
SILVER AIRWAYS LLC.	355	.....	56	142	26	119	.....	.....	.....	42	80	910	1.13	
TEM ENTERPRISES	21	25	5	5	1	55	97	81	.....	2	59	35	0.06	Doing business as Xtra Airways.
TRANS STATES AIRLINES LLC.	1,116	.....	244	464	48	.....	.....	.....	.....	.....	.....	1,680	.....	Planned shutdown accelerated due to Covid.

5. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Since the IPSB rule applies to only new airplanes entering the fleet, the analysis assumes that each operator's current fleet is replaced immediately even though the fleet airplanes generally will be replaced only when they are retired. Though airplanes could be retired any time over the next 25 years depending on the age of the airplane, the analysis assumes immediate replacement to ensure that the economic impact is not underestimated. The regulatory impact analysis assumes that the average retirement age of transport category airplanes is 25 years.

The economic impact is assessed using 11 of the 22 small operators for which revenue data is available from Cirium's (formerly FlightGlobal) FlightFleets Analyzer. The analysis uses average revenue for the five-year period 2015–2019. Revenue figures for the 11 operators are available for an average of 3.45 years. For an operator, the economic impact is measured as the estimated $35,000 cost of an FAA-certified IPSB times number of airplanes, as a percentage of the average revenue. The number of airplanes is from the SPAS database as of January 9, 2020. The regulatory impact analysis also considers training costs for flight attendants and pilots, but these costs are not included here as they have a trivial effect on the results.

As Table 2 shows, the economic impact ranges from 0.06% and 1.13% of

sales, which averages to 0.60%. On a 2% criterion that the economic impact is significant only if cost is at least 2% of a small firm's annual revenues, there is no significant economic impact for any small firm. On a 1% criterion, the economic impact is barely significant for just 2 of the 11 firms for which data is available. Bearing in mind that these estimates are very conservative, the FAA concludes that there is not a significant impact on a substantial number of small firms.

6. Significant Alternatives Considered

The FAA evaluated alternatives to this rulemaking that could minimize impacts on small entities. The FAA identified only alternative 2 of its regulatory impact analysis as potentially minimizing such impacts. Specifically, the FAA considered exempting short duration flights from the rule as a means of reducing economic impacts on small entities. ARAC recognized that, for short flights, the flightdeck door may not need to be opened, in which case the IPSB would not provide the intended benefit. However, ARAC was unable to identify any airplane design parameter, such as passenger capacity or airplane gross weight that sufficiently correlates with short flights. Also, the range of all the airplane models that will be affected by the rule exceeds the maximum flight length at which opening the flightdeck door is unlikely.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and has determined that it will have a legitimate domestic objective, in that it will increase the safety of the United States from terrorist attacks on U.S.-operated airplanes. This rule would not operate in a manner as to directly affect foreign trade and, therefore, would have little or no effect on foreign trade.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $177.0 million in lieu of $100 million.

This rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there will be no new requirement for information collection associated with this rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

G. Environmental Analysis

In accordance with the provisions of regulations issued by the Council on Environmental Quality (40 CFR parts 1500 through 1508), FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this final rule action qualifies for the categorical exclusion identified in paragraph 5–6.6(d) because no significant impacts to the environment are expected from publication of this final rule and it involves no extraordinary circumstances.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order (E.O.) 13132, Federalism. The FAA has determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, will not have federalism implications.

B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,[39] and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,[40] the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes; or to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on tribes resulting from this final rule.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined that it is not a ''significant energy action'' under the Executive order and is not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to

[39] 65 FR 67249 (Nov. 6, 2000).

[40] FAA Order No. 1210.20 (Jan. 28, 2004), available at *www.faa.gov/documentLibrary/media/1210.pdf.*

reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action will have no effect on international regulatory cooperation.

VII. Additional Information

A. Electronic Access and Filing

A copy of the NPRM, all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.federalregister.gov* and the Government Publishing Office's website at *www.govinfo.gov.* A copy may also be found at the FAA's Regulations and Policies website at *www.faa.gov/regulations_policies.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this final rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702 and 44704; Pub. L. 115–254, 132 Stat 3281 (49 U.S.C. 44903 note).

■ 2. In § 25.795, add paragraph (a)(4) to read as follows:

§ 25.795 Security considerations.

(a) * * *

(4) If required by the operating rules of this chapter, an installed physical secondary barrier (IPSB) must be installed to resist intrusion into the flightdeck whenever the flightdeck door is opened. When deployed, the IPSB must:

(i) Resist a 250 pound (1113 Newtons) static load in the direction of the passenger cabin applied at the most critical locations on the IPSB;

(ii) Resist a 600 pound (2669 Newtons) static load in the direction of the flightdeck applied at the most critical locations on the IPSB;

(iii) Delay a person attempting to access the flightdeck by at least the time required for a crewmember to open and reclose the flightdeck door, but no less than 5 seconds;

(iv) Prevent a person from reaching through and touching the flightdeck door;

(v) Allow for necessary crewmember activities; and

(vi) Provide line-of-sight visibility between the flightdeck door and the cabin.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

■ 4. In § 121.313, add paragraph (l) to read as follows:

§ 121.313 Miscellaneous equipment.

* * * * *

(l) For airplanes required by paragraph (f) of this section to have a door between the passenger and pilot or crew rest compartments, and for passenger-carrying transport category airplanes that have a door installed between the pilot compartment and any other occupied compartment, that were manufactured after August 25, 2025, an installed physical secondary barrier (IPSB) that meets the requirements of § 25.795(a)(4) of this chapter in effect on August 25, 2023.

■ 5. In § 121.584, add paragraph (a)(3) to read as follows:

§ 121.584 Requirement to view the area outside the flightdeck door.

* * * * *

(a) * * *

(3) If the airplane is in flight, any installed physical secondary barrier (IPSB) required by § 121.313(l) has been deployed; and

* * * * *

Issued under authority provided by Public Law 115–254, 49 U.S.C. 106(f) and 44701(a) in Washington, DC, on June 14, 2023.

Polly Trottenberg,

Acting Administrator.

[FR Doc. 2023–13071 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1209; Project Identifier AD–2023–00632–T; Amendment 39–22456; AD 2023–11–10]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, 382G, and 382J airplanes; and Model C–130A, HP–C–130A, EC–130Q, 282–44A–05 (C–130B), C–130B, and C–130H airplanes. This AD was prompted by a report indicating a quality audit found aft fuselage sloping

longerons manufactured with an overaged condition. This AD requires a conductivity check on certain aft fuselage sloping longerons and applicable on-condition actions. This AD also limits the installation of certain aft fuselage sloping longerons under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 11, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 11, 2023.

The FAA must receive comments on this AD by August 10, 2023.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- *Mail*: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2023–1209; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com.*
- You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2023–1209.

FOR FURTHER INFORMATION CONTACT: Fred Caplan, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5507; email: *9-ASO-ATLACO-ADs@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA has received a report indicating a quality audit found aft fuselage sloping longerons manufactured with an overaged condition (*i.e.,* understrength). The FAA determined this occurred because the longerons were not properly checked for conductivity and hardness during manufacturing and consequently were exposed to excessive hot forming temperatures, which reduced the material strength properties of the longeron. An aft fuselage sloping longeron manufactured with an overaged condition would reduce the static strength of the longeron below limit load (*i.e.,* maximum load to be expected in service). If both aft fuselage sloping longerons are understrength, the structural integrity of the airplane would be reduced below limit load, which could lead to failure of both longerons. This condition, if not addressed, could result in loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Lockheed Martin Aeronautics Company Alert Service Bulletin A382–53–69, dated April 12, 2023, for Lockheed Martin Corporation/Lockheed Martin Aeronautics Company (Lockheed) Model 382, 382B, 382E, 382F, and 382G airplanes; and Model C–130A, HP–C–130A, EC–130Q, 282–44A–05 (C–130B), C–130B, and C–130H airplanes. This service information specifies procedures for reviewing the airplane maintenance records to determine if the left or right aft fuselage sloping longeron, having part number (P/N) 342986–( ), has been replaced on or after December 31, 2012, and applicable on-condition actions. The on-conditions actions include doing a conductivity check on any replaced longeron or any longeron for which it cannot be conclusively determined that it has not been replaced; and doing a Rockwell hardness test if the conductivity measurements exceed certain values specified in the service information.

The FAA reviewed Lockheed Martin Aeronautics Company Alert Service Bulletin A382J–53–004, dated March 27, 2023, for Lockheed Model 382J airplanes. This service information specifies procedures for doing a conductivity check on any aft fuselage sloping longeron having P/N 342986–13/–14/–19/–20 and applicable on-condition action. The on-condition action includes doing a Rockwell hardness test if the conductivity measurements exceed certain values specified in the service information.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

AD Requirements

This AD requires accomplishing the actions specified in the service information already described, except as discussed under ''Differences Between this AD and the Service Information.'' This AD also limits the installation of aft fuselage sloping longerons under certain conditions.

Difference Between This AD and the Service Information

The effectivity of Lockheed Martin Aeronautics Company Alert Service Bulletin A382J–53–004, dated March 27, 2023, is limited to Model 382J airplanes, serial numbers 5854, 5889, 5894, and 5956. However, the applicability of this AD includes all Model 382J airplanes. Because the affected aft fuselage sloping longerons are rotable parts, the FAA has determined that these parts could later be installed on airplanes that were initially delivered with acceptable longerons, thereby subjecting those airplanes to the unsafe condition.

Operators should note that, although the Accomplishment Instructions of the referenced service information describe procedures for submitting all conductivity and hardness inspection results to Lockheed to determine further action, the service information does not specify a corrective action. This AD does not require reporting inspection results. Instead this AD requires, depending on the conductivity and hardness test results, repairing using a method approved by the Manager, East Certification Branch, FAA.

Impact on Intrastate Aviation in Alaska

In light of the heavy reliance on aviation for intrastate transportation in Alaska, the FAA fully considered the effects of this AD (including costs to be borne by affected operators) from the earliest possible stages of AD development. This AD is based on those

considerations, and was developed with regard to minimizing the economic impact on operators to the extent possible, consistent with the safety objectives of this AD. In any event, the Federal Aviation Regulations require operators to correct an unsafe condition identified on an airplane to ensure operation of that airplane in an airworthy condition. The FAA has determined in this case that the requirements are necessary and the indirect costs would be outweighed by the safety benefits of the AD.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because numerous understrength aft fuselage sloping longerons have been found on military airplanes of the same type design, and it is likely that understrength longerons are also installed on in-service airplanes. The possibility of both longerons being understrength violates fail-safe design. If both aft fuselage sloping longerons are understrength, the structural integrity of the airplane would be reduced below limit load, which could lead to failure of both longerons. The unsafe condition, if not addressed, could result in loss of the airplane. Also, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include Docket No. FAA–2023–1209 and Project Identifier AD–2023–00632–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Fred Caplan, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5507; email: *9-ASO-ATLACO-ADs@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 40 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Records Review (36 airplanes)	1 work-hours × $85 per hour = $85	$0	$85	$3,060
Conductivity Check (4 Model 382J airplanes)	10 work-hour × $85 per hour = $850	0	850	3,400

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of the applicable records review or conductivity check. The FAA has no way of determining the number of aircraft that might need on-condition actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Conductivity Check and Hardness Test	20 work-hour × $85 per hour = $85	$0	$1,700
Hardness Test (Model 382J airplanes)	10 work-hour × $85 per hour = $85	0	850

The FAA has received no definitive data on which to base the cost estimates for the on-condition repair specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2023–11–10 Lockheed Martin Corporation/ Lockheed Martin Aeronautics Company: Amendment 39–22456; Docket No. FAA–2023–1209; Project Identifier AD–2023–00632–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 11, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all airplanes specified in paragraphs (c)(1) through (2) of this AD, certificated in any category.

(1) Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, 382G, and 382J airplanes.

(2) The airplanes specified in paragraphs (c)(2)(i) through (xi) of this AD, type certificated in the restricted category.

(i) LeSEA Model C–130A airplanes (transferred from Central Air Services, Inc.), Type Certificate Data Sheet (TCDS) A34SO, Revision 1.

(ii) T.B.M., Inc., Model C–130A airplanes, TCDS A39CE, Revision 3.

(iii) Western International Aviation, Inc., Model C–130A airplanes, TCDS A33NM.

(iv) USDA Forest Service Model C–130A airplanes, TCDS A15NM, Revision 4.

(v) Snow Aviation International, Inc., Model C–130A airplanes, TCDS TQ3CH, Revision 1.

(vi) International Air Response (transferred from Rogers Helicopters, Inc., and Heavylift Helicopters Inc.) Model C–130A airplanes, TCDS A31NM, Revision 3.

(vii) Heavylift Helicopters, Inc., Model C–130B airplanes, TCDS A35NM, Revision 1.

(viii) Hawkins & Powers Aviation, Inc., Model HP–C–130A airplanes, TCDS A30NM, Revision 1.

(ix) Coulson Aviation (USA), Inc., Model EC–130Q and C–130H airplanes, TCDS T00019LA, Revision 4.

(x) Lockheed-Georgia Company Model 282–44A–05 (C–130B) airplanes, TCDS A5SO.

(xi) Surplus Model C–130A airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report indicating a quality audit found aft fuselage sloping longerons manufactured with an overaged condition (*i.e.,* understrength). The FAA is issuing this AD to address the possibility of both aft sloping longerons being understrength, which would reduce the structural integrity of the airplane below limit load (*i.e.,* maximum load to be expected in service) and could lead to failure of both longerons. The unsafe condition, if not addressed, could result in loss of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Records Review for All Airplanes Except Model 382J Airplanes

For all airplanes except Model 382J airplanes: Within 35 days after the effective date of this AD, review the airplane maintenance records to determine if the left or right aft fuselage sloping longeron, having part number (P/N) 342986–( ), has been replaced on or after December 31, 2012.

(h) Conductivity Check for All Airplanes Except Model 382J Airplanes

If, during the airplane maintenance records review required by paragraph (g) of this AD, it is determined that the left or right aft fuselage sloping longeron, having P/N 342986–( ), has been replaced on or after December 31, 2012, or it cannot be conclusively determined that the part has not been replaced, before further flight, do a conductivity check on the longeron, in accordance with paragraph 2.E. of the Accomplishment Instructions of Lockheed Martin Aeronautics Company Alert Service Bulletin A382–53–69, dated April 12, 2023.

(i) Hardness Test for All Airplanes Except Model 382J Airplanes

If, during the conductivity check required by paragraph (h) of this AD, the conductivity measurements exceed the values specified in paragraph 2.E.(6) or (7), as applicable, of the Accomplishment Instructions of Lockheed Martin Aeronautics Company Alert Service Bulletin A382–53–69, dated April 12, 2023, before further flight, do a Rockwell hardness test of the longeron, in accordance with paragraph 2.F. of the Accomplishment Instructions of Lockheed Martin Aeronautics Company Alert Service Bulletin A382–53–69, dated April 12, 2023.

(j) Conductivity Check for Model 382J Airplanes

For all Model 382J airplanes: Within 35 days after the effective date of this AD, do a conductivity check on any aft fuselage sloping longeron having P/N 342986–13/–14/–19/–20, in accordance with paragraph 2.D. of the Accomplishment Instructions of Lockheed Martin Aeronautics Company Alert Service Bulletin A382J–53–004, dated March 27, 2023.

(k) Hardness Test for Model 382J Airplanes

If, during the conductivity check required by paragraph (j) of this AD, the conductivity measurements exceed the values specified in paragraph 2.E.(6) or (7), as applicable, before further flight, do a Rockwell hardness test of the longeron, in accordance with paragraph 2.E. of the Accomplishment Instructions of Lockheed Martin Aeronautics Company Alert Service Bulletin A382J–53–004, dated March 27, 2023.

(l) Corrective Action for All Airplanes

If, during any hardness test required by paragraph (i) or (k) of this AD, the hardness reading is below 80 Rockwell B, before further flight, repair using a method approved by the Manager, East Certification Branch, FAA.

(m) No Report

Although Lockheed Martin Aeronautics Company Alert Service Bulletin A382–53–69,

dated April 12, 2023; and Lockheed Martin Aeronautics Company Alert Service Bulletin A382J–53–004, dated March 27, 2023; specify to submit all conductivity and hardness inspection results to Lockheed Martin Aeronautics Company, this AD does not require any report.

(n) Parts Installation Limitation

(1) For all airplanes except Model 382J airplanes: As of the effective date of this AD, no person may install any aft fuselage sloping longeron having P/N 342986–( ) unless the conductivity check specified in paragraph (h) of this AD has been accomplished and all applicable actions specified in paragraphs (i) and (l) have been accomplished.

(2) For all Model 382J airplanes: As of the effective date of this AD, no person may install any aft fuselage sloping longeron having P/N 342986–( ) unless the conductivity check specified in paragraph (j) of this AD has been accomplished and all applicable actions specified in paragraphs (k) and (l) have been accomplished.

(o) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(p) Alternative Methods of Compliance (AMOCs)

(1) The Manager, East Certification Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (q) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) *Required for Compliance (RC):* Except as specified by paragraph (m) of this AD, if any service information contains steps that are identified as RC, those steps, including substeps under an RC step and any figures identified in an RC step, must be done to comply with this AD; any steps that are not identified as RC are recommended. Those steps that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the steps and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to steps, including substeps under an RC step and any figures identified in an RC step, identified as RC require approval of an AMOC.

(q) Related Information

For more information about this AD, contact Fred Caplan, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5507; email: *9-ASO-ATLACO-ADs@faa.gov.*

(r) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Lockheed Martin Aeronautics Company Alert Service Bulletin A382–53–69, dated April 12, 2023.

(ii) Lockheed Martin Aeronautics Company Alert Service Bulletin A382J–53–004, dated March 27, 2023.

(3) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on June 2, 2023.

Michael Linegang,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–13430 Filed 6–21–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0438; Project Identifier 2015–NM–065–AD; Amendment 39–22476; AD 2016–15–01R1]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: The FAA is removing Airworthiness Directive (AD) 2016–15–01, which applied to all Airbus SAS Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. AD 2016–15–01 required an inspection to determine trimmable horizontal stabilizer actuator (THSA) part numbers, serial numbers, and flight cycles on certain THSAs; and repetitive replacement of certain THSAs. The FAA issued AD 2016–15–01 to prevent loss of THSA no-back brake (NBB) efficiency. Since the FAA issued AD 2016–15–01, the FAA has issued AD 2022–25–12 to terminate AD 2016–15–01 for Model A310 series airplanes and AD 2023–11–02 to terminate AD 2016–15–01 for Model A300–600 series airplanes. The FAA has also determined that the inclusion of the Model A300 series airplanes in the applicability of AD 2016–15–01 was an inadvertent error. Accordingly, AD 2016–15–01 is removed.

DATES: This AD becomes effective June 23, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–0438; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by removing AD 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016) (AD 2016–15–01). AD 2016–15–01 applied to all Airbus SAS Model A300 series airplanes; Model A300–600 series airplanes; and Model A310 series airplanes. The NPRM published in the **Federal Register** on March 28, 2023 (88 FR 18263). The NPRM was prompted by the FAA issuing AD 2022–25–12, Amendment 39–22268 (87 FR 78518, December 22, 2022) to terminate AD 2016–15–01 for Model A310 series airplanes, and by the FAA issuing AD 2023–11–02, Amendment 39–22447 (88 FR 36930, June 6, 2023) to terminate AD 2016–15–01 for Model A300–600 series airplanes. The FAA has also determined that the inclusion of the Model A300 series airplanes in the applicability of AD 2016–15–01 was an inadvertent error.

The NPRM proposed to remove AD 2016–15–01. The FAA is issuing this AD to remove AD 2016–15–01.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment, from Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

This AD removes all actions of AD 2016–15–01. Therefore, the requirements of AD 2016–15–01 are terminated.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

Regulatory Findings

The FAA determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016), and

■ b. Adding the following new AD:

AD 2016–15–01R1 Airbus SAS: Amendment 39–22476; Docket No. FAA–2023–0438; Project Identifier 2015–NM–065–AD.

(a) Effective Date

This AD is effective June 23, 2023.

(b) Affected AD

This AD replaces AD 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016).

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Terminating Action

This AD terminates all requirements of AD 2016–15–01.

(f) Related Information

For more information about this AD, contact Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *dan.rodina@faa.gov.*

(g) Material Incorporated by Reference

None.

Issued on June 20, 2023.

Gaetano A. Sciortino,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–13417 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1254; Airspace Docket No. 23–ASO–23]

RIN 2120–AA66

Amendment of Class E Airspace; West Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: A final rule was published in the **Federal Register** on June 8, 2023, amending the West Palm Beach, FL Class E airspace legal description by removing ''West Palm Beach'' from the Palm Beach International Airport name in the legal description sub-header as it is excessive and unnecessary. The FAA discovered the word ''[Amended]'' was not listed after the airspace name in the Class E airspace extending upward from 700 feet above the surface legal description for West Palm Beach, FL. This action corrects this error.

DATES: Effective 0901 UTC, August 10, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Jennifer Ledford, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–5649.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (88 FR 37469, June 8, 2023) for Doc. No. FAA–2023–1254, Class E airspace extending upward from 700 feet above the surface in West Palm Beach, FL. The legal description inadvertently left off the word ''[Amended]'' following the airspace name. This action corrects this error.

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11G dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14

CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in FAA Order JO 7400.11G.

Correction to Final Rule

This action amends (14 CFR) part 71 by adding the word ''[Amended]'' following the Class E airspace extending upward from 700 feet above the surface legal description in West Palm Beach, FL.

Correction to the Final Rule

■ Accordingly, pursuant to the authority delegated to me, the amendment of Class E airspace extending upward from 700 feet above the surface in West Palm Beach, FL, in Docket No. FAA–2023–1254, FR Doc. 2023–12054, published in the **Federal Register** on June 8, 2023 (88 FR 37469), on page 37470, starting in column 1, is corrected as follows:

§ 71.1 [Corrected]

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 West Palm Beach, FL [Amended]

Palm Beach International Airport, FL
(Lat 26°40′59″ N, long 80°5′44″ W)
Palm Beach County Park Airport
(Lat 26°35′35″ N, long 80°5′6″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Palm Beach International Airport and a 6.7-mile radius of Palm Beach County Park Airport.

* * * * *

Issued in College Park, Georgia, on June 20, 2023.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2023–13427 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–0913; Airspace Docket No. 23–AGL–9]

RIN 2120–AA66

Amendment of Class E Airspace; Hastings, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Hastings, MI. This action is the result of an airspace review caused by the decommissioning of the Grand Rapids very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name and geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, October 5, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/*. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Hastings Airport, Hastings, MI, to support instrument flight rule operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2023–0913 in the **Federal Register** (88 FR 24496; April 21, 2023) proposing to amend the Class E airspace at Hastings, MI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within an 8.2-mile (increased from an 6.4-mile) radius of Hastings Airport, Hastings, MI; removes the Grand Rapids VOR/DME and the associated extension from the airspace legal description; removes the exclusion area as it is not required; adds an extension within 2 miles each side of the 123° bearing from the airport extending from the 8.2-mile radius to 11.3 miles southeast of the airport; adds an extension within 2 miles each side of the 303° bearing from the airport extending from the 8.2-mile radius to 9.9 miles northwest of the airport; and updates the name (previously Hastings Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL MI E5 Hastings, MI [Amended]

Hastings Airport, MI
(Lat 42°39′48″ N, long 85°20′45″ W)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Hastings Airport; and within 2 miles each side of the 123° bearing from the airport extending from the 8.2-mile radius of the airport to 11.3 miles southeast of the airport; and within 2 miles each side of the 303° bearing of the airport extending from the 8.2-mile radius of the airport to 9.9 miles northwest of the airport.

* * * * *

Issued in Fort Worth, Texas, on June 20, 2023.

Steven T. Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–13355 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1678; Airspace Docket No. 22–AWA–4]

RIN 2120–AA66

Amendment of the Nashville International Airport Class C Airspace; Nashville, TN; and the John C. Tune Airport Class D Airspace; Nashville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published by the FAA in the **Federal Register** on June 6, 2023, that amended the Nashville International Airport Class C airspace area and the John C. Tune Class D airspace area. In the final rule, the words ''(when active)'' were inadvertently omitted from the sentences that exclude the Smyrna Airport Class D airspace from the Nashville Class C airspace area. The error would cause the incorrect depiction of the Class C and Class D airspace areas on aeronautical charts. This action corrects that error.

DATES: Effective date 0901 UTC, August 10, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, the final rule, this final rule correction, and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/*. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule for Docket No. FAA–2022–1678 in the **Federal Register** (88 FR 36936; June 6, 2023), amending the Nashville International Airport Class C airspace area and the John C. Tune Class D airspace area. Subsequent to publication, the FAA determined that the words ''(when active)'' were inadvertently omitted from the preamble discussion and regulatory text that describe the exclusion of the Smyrna Class D airspace from the Nashville Class C airspace area. Since the Smyrna Class D airspace is a part-time designation, it is only excluded from the Class C airspace during the times the Class D is active. This rule corrects the preamble discussion, and the regulatory text by adding ''(when active)'' following all references to the exclusion of the Smyrna Class D airspace. This complies with aeronautical charting specification requirements to ensure the proper depiction of the airspace on the applicable charts. This action does not alter the actual dimensions of the Class C or Class D airspace areas.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the preamble discussion and regulatory text contained in Docket No. FAA–2022–1678, as published in the **Federal Register** of June 6, 2023 (88 FR 36936), FR Doc. 2023–11909, are corrected as follows:

■ 1. In FR Doc. 2023–11909, on page 36938, add the words ''(when active)'' following both instances of the phrase ''. . . excludes that portion of airspace that is within the Smyrna Airport Class D airspace area'', so that they read: ''. . . excludes that portion of airspace that is within the Smyrna Airport Class D airspace area (when active);''.

■ 2. Amend the Nashville, TN Airport Class C description by adding the words ''(when active)'' following references to the Smyrna, TN, Airport Class D airspace area, to read as follows:

§ 71.1 [Corrected]

* * * * *

ASO TN C Nashville, TN [Amended]

Nashville International Airport, TN
(Lat. 36°07′28″ N, long. 86°40′41″ W)
Smyrna Airport, TN

(Lat. 36°00′32″ N, long. 86°31′12″ W)

That airspace extending upward from the surface to 6,000 feet MSL within a 5-mile radius of Nashville International Airport; and that airspace extending upward from the surface to 6,000 feet MSL within a 7-mile radius of Nashville International Airport from the 335° bearing from the airport clockwise to the 230° bearing from the airport, excluding that portion within the Smyrna Airport, TN, Class D airspace area (when active); and that airspace extending upward from 1,800 feet MSL to 6,000 feet MSL within a 15-mile radius of Nashville International Airport from the 335° bearing from the airport clockwise to the 060° bearing from the airport; and that airspace extending upward from 2,400 feet MSL to 6,000 feet MSL within a 15-mile radius of the airport from the 060° bearing from the airport clockwise to the 155° bearing from the airport, excluding that portion within the Smyrna Airport, TN, Class D airspace area (when active); and that airspace extending upward from 1,800 feet MSL to 6,000 feet MSL within a 15-mile radius of Nashville International Airport from the 155° bearing from the airport clockwise to the 230° bearing from the airport; and that airspace extending upward from 2,400 feet MSL to 6,000 feet MSL within a 15-mile radius of Nashville International Airport from the 230° bearing from the airport clockwise to the 335° bearing from the airport.

* * * * *

Issued in Washington, DC.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023–13388 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 242

RIN 0412–AB11

Implementation of the HAVANA Act of 2021

AGENCY: The United States Agency for International Development (USAID).

ACTION: Interim final rule.

SUMMARY: This rule provides implementation by the United States Agency for International Development (USAID) of the HAVANA Act of 2021. The Act provides authority for the Secretary of State and other agency heads to provide payments to certain individuals who have incurred qualifying injuries to the brain. This rule covers current and former USAID employees, and dependents of current or former employees.

DATES:

Effective date: This interim final rule is effective August 10, 2023.

Comment due date: The United States Agency for International Development will accept comments on this interim final rule until August 25, 2023.

ADDRESSES: Interested parties may submit comments by one of the following methods:

- *Email: AHIRule@usaid.gov* with the subject line, HAVANA ACT RULE.
- *Internet:* At *www.Regulations.gov,* search for this document using the subject line, HAVANA ACT RULE.

Note that all submissions to *regulations.gov* are public, and USAID cannot edit the comments to remove personal information. If you have any concerns about your comment being viewed by the public, please use the email option above.

FOR FURTHER INFORMATION CONTACT: Aaron Michael Stern, USAID AHI Working Group Coordinator, *HARuleInfo@usaid.gov,* (202) 712–5568.

SUPPLEMENTARY INFORMATION: This rule implements the HAVANA Act of 2021, Public Law 117–46, codified in 22 U.S.C. 2680b(i).

Background and Authority—§ 242.1

On October 8, 2021, the ''Helping American Victims Affected by Neurological Attacks'' (HAVANA) Act of 2021 became law (Pub. L. 117–46). In this Act, Congress authorized federal government agencies to compensate affected current employees, former employees, and their dependents for qualifying injuries to the brain after January 1, 2016, in connection with certain hostile or other incidents designated by the Secretary of State. This law requires USAID (and other agencies) to ''prescribe regulations'' implementing the HAVANA Act not later than 180 days after the effective date of the Act. Section 3 of the HAVANA Act of 2021 removed the requirement in Public Law 116–94, Division J, Title IX, Section 901, that the qualifying injury occurs in ''the Republic of Cuba, People's Republic of China, or other foreign country designated by the Secretary of State'' for the purpose of making a payment under the HAVANA Act. This interim final rule only implements the HAVANA Act of 2021.

This regulation applies only to current and former employees of the United States Agency for International Development, and dependents of current or former employees, as defined in § 242.2 of this rule.

Definitions—§ 242.2

The rule follows the definitional template provided in the HAVANA Act and its predecessors. The rule defines certain categories of individuals as employees (and thus covered under the Foreign Affairs Manual and the USAID Automated Directives System (ADS)), as well as those who are not considered employees.

For covered employees, the qualifying injury must have occurred on or after January 1, 2016. Similarly, for dependents, the qualifying injury must have occurred on or after January 1, 2016, while the employee was a covered employee of USAID. To make a payment under the Act, this rule defines ''covered dependent'' as any family member of a USAID current or former employee, without any restriction on where the USAID employee was posted. The rule adopts the Department of State's definition of ''eligible family member'' in 14 Foreign Affairs Manual (FAM) 511.3 to define ''dependent.''

The term ''covered employee'' includes USAID Foreign Service Officers; USAID Civil Service employees; Appointment Eligible Family Member Adjudicator positions; Expanded Professional Associates Program members; Family Member Appointments; Foreign Service Family Reserve Corps; employees on Limited Non-Career Appointments; Temporary Appointments; students providing volunteer services under U.S.C. 3111; an individual under a Personal Services Contract (Third Country National, Cooperating Country National, and US Personal Services Contracts); or appointed to the position; and USAID's Interns and Fellows.

The term ''covered individual'' includes any former employee of USAID (including retired or separated employees) who, on or after January 1, 2016, became injured because of a qualifying injury to the brain while they were a covered employee of USAID.

The term ''covered dependent'' includes any family member of a USAID current or former employee who, on or after January 1, 2016, becomes injured because of a qualifying injury to the brain while the dependent's sponsor was a covered employee of USAID. For purposes of determining whether someone is a covered dependent, the term ''family members'' includes unmarried children under 21 years of age (or certain other children); parents; sisters and brothers; and spouse. Stepparents and step-siblings are included in the definition.

The definition of ''qualifying injury to the brain'' is based on current medical practices related to brain injuries. Further, the injury must have occurred in connection with certain hostile acts, including war, terrorist activity, or other incidents designated by the Secretary of

State or those authorized by law, and must not have been the result of the willful misconduct of the covered individual. The individual must have: an acute injury to the brain such as, but not limited to, a concussion, penetrating injury, or as the consequence of an event that leads to permanent alterations in brain function as demonstrated by confirming correlative findings on imaging studies (to include computed tomography scan (CT), or magnetic resonance imaging scan (MRI)), or electroencephalogram (EEG); or a medical diagnosis of a traumatic brain injury (TBI) that required active medical treatment for 12 months or more; or acute onset of new persistent, disabling neurologic symptoms as demonstrated by confirming correlative findings on imaging studies (to include CT, MRI), or EEG, or physical exam, or another appropriate testing, and that required active medical treatment for 12 months or more.

This rule adopts the definition developed by the U.S. Department of State in consultation with officials at several prominent medical centers. Based on those inquiries, it appears that the majority of patients who have reported anomalous health incidents were seen by a neurologist certified by the American Board of Psychiatry and Neurology (ABPN), or by a physician certified by the American Board of Physical Medicine and Rehabilitation (ABPMR), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), and the American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR). There is no ICD–10 diagnostic code or criteria for AHIs (International Classification of Diseases, Tenth Revision, Clinical Modification (ICD–10–CM)). Because of the varied symptoms and still-nascent understanding of how to test or otherwise screen for AHI impacts, the established standards below will be broadly inclusive of the types of injuries that have been reported by covered individuals to date.

The first component of the definition in § 242.2 ''Qualifying injury to the brain'' (paragraph (2)(a)) accounts for a variety of observable impacts to an individual, including either a concussion, a penetrating injury, or absent either of those, the ability of an ABPN ABPMR, AOBNP, AOBPMR-certified physician/neurologist to review one of a variety of forms of medical imaging evidence indicating permanent alterations in brain function. The intent of this standard is to ensure there is some documented evidence of impact to the brain, while minimally circumscribing what that impact entails. The second and third components of the definition (paragraphs (2)(b) and (c) of the definition), only one of which must be satisfied, are intended to provide multiple avenues for demonstrating sustained, long-term impact to the individual. This benefit is intended for individuals who experience long-term consequences, potentially including their inability to gainfully work, as a result of their reported possible AHI. Establishing a 12-month threshold of active medical treatment is indicative of a long-term injury. For example, the CDC broadly defines chronic diseases ''as conditions that last 1 year or more and require ongoing medical attention or limit activities of daily living or both.''

USAID notes that in adopting this definition, there may be eligible applicants who have suffered kinetic or external, physically-caused injuries to the brain such as the head being struck by an object, the head striking an object, the brain undergoing an acceleration or deceleration movement, or forces generated from events such as a blast or explosion, including penetrating injuries, if their injuries satisfy the other requirements of this rule.

The American Board of Psychiatry and Neurology (ABPN), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), the American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR), and the American Board of Physical Medicine and Rehabilitation (ABPMR) certify neurologists and physicians, respectively, maintaining strict professional requirements for membership. As such, USAID endorses these industry certifications as the clinical standard for assessing and diagnosing a qualifying injury to the brain.

The definition of ''other incident'' is a new onset of physical manifestations that cannot otherwise be explained. USAID notes that it maintains a non-public list of potential incidents based on internal reports it has collected from personnel and their dependents since 2016. While USAID believes this list to be reflective of known incidents to date, USAID will work with any requestor upon submission of the AID 442–1 (''Eligibility Questionnaire for HAVANA Act Payments'') to determine whether or not their alleged incident aligns with USAID's record of ''other incidents.''

Eligibility for Payments—§ 242.3

USAID will communicate with its entire workforce to inform them of the rule, regulations, and process for requesting payment. USAID will work together with potential recipients to provide the necessary documentation to qualify for payment. In the majority of cases, potentially affected personnel are already known to USAID due to internal reporting after individuals experienced what they believe to be an AHI. While USAID believes these efforts will ensure all potential requestors will be able to identify themselves to USAID and begin the process of requesting a payment, the AID 442–1, the form associated with developing the necessary evidence to submit a claim, will also be publicly hosted on USAID's Forms website with instructions on how to contact USAID if a requestor believes they are eligible for a HAVANA Act payment.

Section 242.3 states the conditions required before USAID will consider discretionary payments to former employees and dependents of current or former employees: the qualifying injury to the brain for a former employee must have occurred on or after January 1, 2016, and while the former employee was a covered employee of USAID; and for a dependent, the injury must have occurred on or after January 1, 2016, and while the dependent's sponsor was a covered employee of USAID. The Chief Human Capital Officer must approve any HAVANA Act payment.

Payments will be a one-time, nontaxable, lump sum payment, based on Level III of the Executive Schedule (see 5 U.S.C. 5311 *et seq.*). The payment is non-taxable pursuant to 22 U.S.C. 2680b(g). As indicated in § 242.3(e), in determining the amount of the payment, USAID considers (1) the responses on the AID 442–1, ''Eligibility Questionnaire for HAVANA Act Payments'' and (2) whether the Department of Labor (Workers' Compensation) has determined that the requestor has no reemployment potential, or the Social Security Administration has approved the requestor for Social Security Disability Insurance or Supplemental Security Insurance (SSI) benefits, or the requester's ABPN, AOBNP, ABPMR, or AOBPMR board-certified physician has certified that the individual requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence of Daily Living.

The award thresholds are based on Level III of the Senior Executive Schedule (SES). Base will be 75 percent of Level III pay, and Base+ will be 100 percent of Level III pay. If the requestor meets any of the criteria listed in § 242.3(e)(2), the requestor will be eligible to receive a Base+ payment. Requestors whose neurologists or physicians confirm that the definition of ''qualifying injury to the brain'' has been met but have not met any of the criteria

listed in § 242.3(e)(2), will be eligible to receive a Base payment. The criteria established in § 242.3(e)(2) are reflective of USAID's objective of ensuring that the individuals most severely affected by AHIs (as indicated by a lack of reemployment potential, an inability to engage in substantial gainful activity, or the need for a full-time caregiver) receive additional payment.

The specific use of the Department of Labor (DOL) or the Social Security Administration's (SSA) determination is to ensure that both federal employees as well as covered individuals and covered dependents have access to a mechanism for this determination. USAID recognizes that the criteria DOL and SSA use in their disability determinations are distinct, as well as the fact that the procedural timelines for seeking and receiving approval may be different between these agencies. The third option, that the requester's ABPN, AOBNP, ABPMR, or AOBPMR board-certified physician has certified that the individual requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence of Daily Living, provides an alternative mechanism for all individuals.

Finally, USAID notes that if a requestor who received a Base payment later meets any of the criteria listed in (e)(2) above, the requestor may apply for an additional payment that will be the difference between the Base and Base+ payment. At the time of writing this rule (2022), a Base payment will be $140,475. A Base+ payment will be $187,300. As the payments are tied to the SES, the amounts will change over time based on increases to the Federal salary schedule. The specific use of Level III of the SES sets the compensation at the maximum annual salary potentially available to most of the federal workforce. While payments under the HAVANA Act may be on top of other leave, disability, or workers' compensation payments the requestor is receiving or may be entitled to receive that also help augment any loss of income, USAID believes this is an appropriate additional payment. USAID also believes this amount is the most it can reasonably compensate each requestor while ensuring available funds for the total amount of requestors it believes will likely receive payments. USAID also notes that because payments are contingent on appropriated funds all payments will be paid out on a first-come, first-served basis.

Consultations With Other Agencies—§ 242.4

The United States Agency for International Development will, to the extent possible, consult with the appropriate officials and other federal agencies to identify their current and former covered employees, and current and former dependents who reported an anomalous health incident. This consultation is solely to assist USAID in determining who might be initially eligible for payment under the HAVANA Act.

Regulatory Analysis

Administrative Procedure Act

This rule is being published as an interim final rule. Because this rule is a matter relating to public benefits, it is exempt from the requirements of 5 U.S.C. 553. See 5 U.S.C. 553(a)(2). Since the rule is exempt from the entirety of section 553, pursuant to section 553(a)(2), the provisions of section 553(d) do not apply and the rule could be in effect upon publication. However, USAID has determined on an effective date of August 10, 2023. In addition, it is in the public interest for the rule to have an expeditious effective date. However, USAID is seeking comments from interested persons on the provisions of this Rule and will consider all relevant comments in determining whether additional rulemaking is warranted under the provisions of the HAVANA Act.

Congressional Review Act

The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has determined that this rule is not a major rule as defined by 5 U.S.C. 804 for the purposes of Congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million in any year; and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The United States Agency for International Development has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Regulatory Flexibility Act: Small Business

The United States Agency for International Development certifies that this rulemaking will not have an impact on a substantial number of small entities. A regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Executive Order 12866 and Executive Order 13563

The United States Agency for International Development has provided this interim final rule to OMB for its review. OIRA has designated this rule as ''significant'' under Executive Order 12866. Potential causes of AHI are being investigated but remain unknown. Given the nature of the incidents, it is difficult to accurately estimate future incidents and the number of individuals affected. For Fiscal Year (FY) 2022, USAID estimated that it would pay up to $141,000 to one (1) person. For FY 2023, the estimated numbers remain the same at $141,000 for one (1) person.

USAID has also reviewed the rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and finds that the benefits of the rule (in providing mechanisms for individuals to obtain compensation for certain injuries) outweigh any costs to the public, which are minimal. USAID has also considered this rulemaking considering Executive Order 13563 and affirms that this proposed regulation is consistent with the guidance therein.

Executive Order 12988

The United States Agency for International Development has reviewed this rule in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Orders 12372 and 13132

This rule will not have a substantial direct effect on the states, on the relationships between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications

to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on federal programs and activities, does not apply to this regulation.

Paperwork Reduction Act

This rulemaking is related to an information collection for the Form AID 442–1, ''Eligibility Questionnaire for HAVANA Act Patients.''

List of Subjects in Part 242

Government employees; Federal retirees; Health care.

■ Accordingly, for the reasons stated in the preamble, USAID adds part 242 to Title 22, Code of Federal Regulations, to read as follows:

PART 242—IMPLEMENTATION OF THE HAVANA ACT OF 2021

Sec.
242.1 Authority.
242.2 Definitions.
242.3 Eligibility for payments by the United States Agency for International Development.
242.4 Consultations with Other Agencies.

Authority: 22 U.S.C. 2651a; 22 U.S.C. 2680b.

§ 242.1 Authority.

(a) Under section 3 of the HAVANA Act of 2021 (Pub. L. 117–46), codified in 22 U.S.C. 2680b(i), the Secretary of State or other agency heads may provide a payment for a qualifying injury to the brain to a covered employee or covered dependent, who incurred a qualifying injury to the brain on or after January 1, 2016. The authority to provide such payments is at the sole discretion of the USAID Administrator or their designee.

(b) These regulations are issued in accordance with 22 U.S.C. 2680b(i)(4) and apply to former covered employees of the United States Agency for International Development and their covered dependents.

§ 242.2 Definitions.

For purposes of this part, the following definitions apply:

Covered employee: (1) An employee of USAID who, on or after January 1, 2016, becomes injured by reason of a qualifying injury to the brain.

(2) The term ''covered employee'' includes USAID Foreign Service Officers; USAID Civil Service employees; Appointment Eligible Family Member Adjudicator positions; Expanded Professional Associates Program members; Family Member Appointments; Foreign Service Family Reserve Corps; employees on Limited Non-Career Appointments; Temporary Appointments; students providing volunteer services under U.S.C. 3111; an individual under a Personal Services Contract (Third Country National, Cooperating Country National, and US Personal Services Contracts); or appointed to the position; and USAID's Interns and Fellows.

(3) The following are not considered employees of USAID for purposes of these regulations (see § 242.4): employees or retired employees of other agencies.

Covered dependent: A family member of a USAID current or former employee who, on or after January 1, 2016, becomes injured by reason of a qualifying injury to the brain while the dependent's sponsor was a covered employee of USAID.

Covered individual: A former employee of USAID (including retired or separated employees) who, on or after January 1, 2016, becomes injured because of a qualifying injury to the brain while they were a covered employee of USAID.

Family member: For purposes of determining ''covered dependent,'' a family member is defined as follows:

(1) Children who are unmarried and under 21 years of age or, regardless of age, are unmarried and due to mental and/or physical limitations are incapable of self-support. The term ''children'' must include natural offspring, step-children, adopted children, and those under permanent legal guardianship (at least until age 18), or comparable permanent custody arrangement, of the employee or spouse or domestic partner (as defined in 3 Foreign Affairs Manual (FAM) 1610) when dependent upon and normally residing with the guardian or custodial party, and U.S. citizen children placed for adoption if a U.S. court grants temporary guardianship of the child to the employee and specifically authorizes the child to reside with the employee in the country of assignment before the adoption is finalized;

(2) Parents (including stepparents and legally adoptive parents) of the employee or of the spouse or of the domestic partner as defined in 3 FAM 1610.

(3) Sisters and brothers (including stepsisters or stepbrothers, or adoptive sisters or brothers) of the employee, or of the spouse when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are physically and/or mentally incapable of self-support; and

(4) Spouse.

Other incidents: A new onset of physical manifestations that cannot otherwise be readily explained.

Qualifying injury to the brain: (1) The injury must have occurred in connection with war, insurgency, hostile act, terrorist activity, or other incidents designated by the Secretary of State, and that was not the result of the willful misconduct of the covered individual; and

(2) The individual must have:

(i) An acute injury to the brain such as, but not limited to, a concussion, penetrating injury, or as the consequence of an event that leads to permanent alterations in brain function as demonstrated by confirming correlative findings on imaging studies (to include computed tomography scan (CT), or magnetic resonance imaging scan (MRI)), or electroencephalogram (EEG); or

(ii) A medical diagnosis of a traumatic brain injury (TBI) that required active medical treatment for 12 months or more; or

(iii) Acute onset of new persistent, disabling neurologic symptoms as demonstrated by confirming correlative findings on imaging studies (to include CT or MRI), or EEG, or physical exam, or other appropriate testing, and that required active medical treatment for 12 months or more.

§ 242.3 Eligibility for payments by the United States Agency for International Development.

(a) The United States Agency for International Development may provide a payment to covered individuals, as defined in § 242.2, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the American Board of Psychiatry and Neurology (ABPN), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), the American Board of Physical Medicine and Rehabilitation (ABPMR), or the American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR); occurred on or after January 1, 2016; and while the individual was a covered employee of USAID.

(b) The United States Agency for International Development may provide a payment to covered employees, as defined in § 242.2, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the ABPN, AOBNP, ABPMR, or AOBPMR; occurred on or after January 1, 2016; and while the employee was a covered employee of USAID.

(c) The United States Agency for International Development may provide a payment to a covered dependent if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the ABPN, AOBNP, ABPMR, or AOBPMR; occurred on or after January 1, 2016; and while the employee was a covered employee of USAID at the time of the dependent's injury.

(d) Payment for a qualifying injury to the brain will be a non-taxable, one-time lump sum payment.

(e) USAID will determine the amount paid to each eligible person based on the following factors:

(1) The responses on the AID 442–1, ''Eligibility Questionnaire for HAVANA Act Payments;'' and

(2) Whether the Department of Labor (Workers' Compensation) has determined that the requester has no reemployment potential, or the Social Security Administration has approved the requester for Social Security Disability Insurance or Supplemental Security Insurance (SSI) benefits;, or the requester's ABPN, AOBNP, ABPMR, or AOBPMR board-certified physician has certified that the individual requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence of Daily Living.

(3) The award thresholds are based on Level III of the Senior Executive Schedule: Base will be 75 percent of Level III pay, and Base+ will be 100 percent of Level III pay. If the requestor meets any of the criteria listed in paragraph (e)(2) of this section, the requestor will be eligible to receive a Base+ payment. Requestors whose neurologists confirm that the definition of ''qualifying injury to the brain'' has been met but have not met any of the criteria listed paragraph (e)(2) of this section, will be eligible to receive a Base payment. If a requestor who received a Base payment later meets any of the criteria listed in paragraph (e)(2) of this section, the requestor may apply for an additional payment that will be the difference between the Base and Base+ payment.

(f) The Chief Human Capital Officer (CHCO) may approve payments under the rule. The Office of Human Capital and Talent Management (HCTM) will notify individuals of the decision in writing.

(g) An appeal of a decision made by the Chief Human Capital Officer (CHCO) may be directed to the Deputy Administrator for Management and Resources in writing. The Deputy Administrator for Management and Resources is the final appeal authority. HCTM will notify individuals of the decision in writing.

§ 242.4 Consultation with other agencies.

The United States Agency for International Development will, to the extent possible, consult with the appropriate officials' other federal agencies to identify their current and former covered employees, and current and former dependents who reported an anomalous health incident. This consultation is solely to assist USAID in determining who might be initially eligible for payment under the HAVANA Act.

Aaron Michael Stern,

USAID AHI Working Group Coordinator.

[FR Doc. 2023–13328 Filed 6–23–23; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0054]

Safety Zone; Atlantic Intracoastal Waterway, Swansboro, NC

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone near Swansboro, NC on July 3, 2023, to provide for the safety of life on navigable waterways of the Atlantic Intracoastal Waterway during a fireworks display. Our regulation for marine events within the Fifth Coast Guard District identifies the regulated area for this event in Swansboro, NC. During the enforcement period, entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP), Sector North Carolina or a designated representative.

DATES: The regulation in 33 CFR 165.506(h)(4) for the area listed in item 15 in table 4 in § 165.506(h)(4) will be enforced from 9 p.m. until 9:45 p.m. on July 3, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Petty Officer Ken Farah, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone 910–772–2221, email *NCMarineevents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone in 33 CFR 165.506(h)(4) for the Town of Swansboro Fireworks Display-July 4 Celebration fireworks display from 9 p.m. to 9:45 p.m. on July 3, 2023. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Fifth Coast Guard District, § 165.506(h)(4), specifies the location of the regulated area for the Town of Swansboro Fireworks Display-July 4 Celebration fireworks display at item 15 in table 4 in § 165.506(h)(4), which encompasses portions of the Atlantic Intracoastal Waterway. As reflected in § 165.506, during the enforcement period, if you are the operator of a vessel in the regulated area you must comply with directions from the Captain of the Port (COTP), Sector North Carolina or a designated representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and Broadcast Notice to Mariners.

Dated: June 20, 2023.

Matthew J. Baer,

Captain, U.S. Coast Guard, Captain of the Port, Sector North Carolina.

[FR Doc. 2023–13479 Filed 6–23–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2021–0001; FRL–10014–02–R8]

Air Plan Approval; Montana; Revisions to Regional Haze State Implementation Plan and Partial Withdrawals to Regional Haze Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Montana on March 25, 2020, addressing regional haze. Specifically, EPA is approving a SIP revision for the first implementation period of the Clean Air Act's (CAA) regional haze program that addresses the nitrogen oxides (NO_X) and sulfur dioxide (SO_2) Best Available Retrofit Technology (BART) requirements for two electric generating unit (EGU) facilities, as well as replaces portions of the Federal Implementation Plan (FIP) promulgated by EPA in 2012 (2012

regional haze FIP) addressing the NO_X, SO_2, and particulate matter (PM) BART requirements for two cement kilns and the PM BART requirements for the same two EGU facilities. Consistent with our approval of Montana's regional haze SIP revision, EPA is withdrawing, the portions of the FIP promulgated by EPA in the 2012 regional haze FIP addressing the NO_X, SO_2, and PM BART requirements for the two cement kilns and the PM BART requirements for the two EGU facilities. This action also addresses the United States Court of Appeals for the Ninth Circuit's June 9, 2015 vacatur and remand of portions of the FIP. EPA is finalizing this action pursuant to the CAA.

DATES: This rule is effective on July 26, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2021–0001. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the website and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please call or email the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jaslyn Dobrahner, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6252, email address: *dobrahner.jaslyn@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background

In our notice of proposed rulemaking published on September 9, 2022 (87 FR 55331), EPA proposed to approve revisions to Montana's regional haze SIP submitted by the State of Montana on March 25, 2020. In this rulemaking, we are taking final action to approve two Montana Board of Environment Review Orders pertaining to regional haze requirements for four facilities [1] into the state's SIP. Specifically, EPA is approving: (1) NO_X, SO_2, and PM BART emission limits along with associated requirements for the Ash Grove Cement Company's Montana City Plant (Montana City) and GCC Three Forks, LLC's Trident Plant (Trident); (2) the PM BART emission limits along with associated requirements for Talen Montana, LLC's Colstrip Steam Electric Station, Units 1 and 2 (Colstrip Units 1 and 2); (3) the determination that Colstrip Units 1 and 2's enforceable shutdown date of July 1, 2022, satisfies the outstanding NO_X and SO_2 BART requirements for that facility; and (4) the determination that the outstanding NO_X and SO_2 BART requirements for Corette (as well as the remaining PM BART requirements for Corette in EPA's FIP) are satisfied because the source is no longer in operation and has been demolished.

Consistent with our approval of Montana's regional haze SIP for the PM BART emission limits and other requirements for Colstrip Units 1 and 2 and Corette along with the NO_X, SO_2, and PM BART emission limits and other requirements for Montana City and Trident, we are also withdrawing those corresponding portions of the 2012 regional haze FIP found at 40 CFR 52.1396.

In addition, through our approval of the NO_X and SO_2 BART determinations for Corette and Colstrip Units 1 and 2, we are addressing the U.S. Court of Appeals for the Ninth Circuit's June 9, 2015 remand of portions of the 2012 regional haze FIP in this action, including EPA's response to a public comment regarding the use of the CALPUFF visibility model in determining BART at Colstrip Units 1 and 2.

The technical rationale for our approval and our response to the remand of portions of the 2012 FIP for Montana are provided in detail in the proposed rule.

II. Public Comments and EPA Responses

We received two comments that were both submitted anonymously during the public comment period. EPA determined that the first comment, which asks where money collected in the form of fees, auctions of emissions rights, and permits will go, does not pertain to and is outside the scope of our proposed action and fails to identify a material issue related to this action that necessitates a response. Below is a summary of the second comment and EPA's response.

Comment: The commenter asserts that NO_X, SO_2, and PM are dangerous chemicals that lead to adverse health effects, including respiratory infections, asthma, lung disease and cancer. Likewise, the commenter claims that these emissions could also cause environmental damage, including acid rain, contributions to the greenhouse effect, and changes to weather patterns associated with climate change. In summary, the commenter argues that these emissions are harmful to people living nearby these facilities and reductions in emissions will protect both human health and the environment.

Response: EPA appreciates the commenter's concerns regarding the negative health impacts of NO_X, SO_2, and PM. While the legal requirements against which we have evaluated Montana's SIP submission for purposes of this action concern remedying visibility impairment,[2] we note this action may also have potential co-benefits through the reductions of NO_X, SO_2, and PM emissions associated with meeting the BART requirements. Therefore, while we appreciate the commenter's concern and support for this action, we take no positions as to these specific statements.

[1] Ash Grove Cement Company's Montana City Plant; GCC Three Forks, LLC's Trident Plant; JE Corette Steam Electric Station; and Talen Montana, LLC's Colstrip Steam Electric Station, Units 1 and 2.

[2] See generally CAA section 169A.

III. EPA's Final Action

We are approving the following elements of Montana's regional haze SIP revision as satisfying the applicable requirements for the first regional haze planning period:

- In the Matter of an Order Setting Air Pollutant Emission Limits that the State of Montana may Submit to the Federal Environmental Protection Agency for Revision of the State Implementation Plan Concerning Protection of Visibility, Affecting the Following Facilities: Ash Grove Cement Company's Montana City Plant, and GCC Three Forks, LLC's Trident Plant. Board Order Findings of Fact, Conclusions of Law, and Order. October 18, 2019, Appendix A.
- In the Matter of an Order Setting Air Pollutant Emission Limits that the State of Montana may Submit to the Federal Environmental Protection Agency for Revision of the State Implementation Plan Concerning Protection of Visibility, Affecting the Following Facilities: Talen Montana, LLC's Colstrip Steam Electric Station, Units 1 and 2, and JE Corette Steam Electric Station. Board Order Findings of Fact, Conclusions of Law, and Order. October 18, 2019, Appendix A.

Because we are finding that Montana's SIP revision satisfies the applicable requirements related to the obligation for states' regional haze plans to include BART for the first regional haze planning period, we are also withdrawing the corresponding portions of the 2012 regional haze FIP addressing the NO_X, SO_2, and PM BART emission limits and associated requirements for two cement kilns and the PM BART emission limits and associated requirements for the two EGU facilities contained within our 2012 regional haze FIP at 40 CFR 52.1396. While EPA is approving the emission limits, compliance determination requirements, and other monitoring, reporting, and recordkeeping requirements associated with BART into Montana's SIP as detailed in the proposed rule, other regional haze requirements for the first implementation period, including requirements related to reasonable progress and analytical requirements related to BART remain satisfied by EPA's FIP (with no enforceable FIP requirements left in the CFR).

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the SIP amendments described in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* (refer to docket EPA–R08–OAR–2021–0001) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[3]

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is exempt from review under Executive Order 12866, as amended by Executive Order 14094, because it applies to only 4 facilities in the State of Montana.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA) because it revises the reporting requirements for 4 facilities.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). This action will not impose any requirements on small entities as no small entities are subject to the requirements of this rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action merely transfers the regional haze requirements found in the 2012 regional haze FIP to a SIP and approves the State's permanent closure of two facilities, thus this action is not subject to the requirements of sections 202 or 205 of UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'', requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' [4] This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this action. However, EPA did send letters to each of the Montana tribes explaining our regional haze action and offering consultation.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997). EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant

[3] 62 FR 27968 (May 22, 1997).

[4] 65 FR 67249, 67250 (November 9, 2000).

regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high, and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

The EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or Indigenous peoples. In 2012, we determined that our final action would ''not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increased the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.'' [5]

The EPA believes that this action is not likely to result in new disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. Because this final rule alters the existing requirements for regional haze in the State of Montana by including the enforceable shutdown of two sources and otherwise only transfers existing requirements from a FIP to the SIP, our determination is unchanged from that in 2012. The EPA additionally identified and addressed environmental justice concerns by performing a screening analysis using the EJScreen tool [6] to evaluate environmental and demographic indicators for the areas impacted by this action. These results indicate that areas impacted by this final action are not potential areas of EJ concern and are not candidates for further EJ review. EPA is providing this information for public information purposes, and not as a basis of our final action. The information supporting this Executive Order review is contained in the docket for this action.

K. Determination Under Clean Air Act Section 307(d)

The partial withdrawal of EPA's FIP in this action is subject to the provisions of CAA section 307(d) pursuant to section 307(d)(1)(B), which provides that section 307(d) applies to, among other things, ''the promulgation or revision of an implementation plan by the Administrator under [CAA section 110(c)].'' [7] The agency has complied with the procedural requirements of CAA section 307(d) during the course of this rulemaking with regard to the entirety of this action.

L. Congressional Review Act

This rule is exempt from the Congressional Review Act (CRA) because it is a rule of particular applicability that only applies to 4 facilities.

M. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Particulate matter, Sulfur oxide.

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart BB—Montana

■ 2. Amend § 52.1370 by revising the table in paragraph (d) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(d) * * *

Title/subject	State effective date	Notice of final rule date	NFR citation
(1) Cascade County:			
1985 December 5 Stipulation and 1985 October 20 Permit for Montana Refining Company. In the matter of the Montana Refining Company, Cascade County; compliance with ARM 16.8.811, ambient air quality standard for carbon monoxide.	12/5/1985	9/7/1990	55 FR 36812.
(2) Deer Lodge County:			
1978 November 16 Order for Anaconda Copper Smelter. In the Matter of the Petition of the Department of Health and Environmental Sciences for an Order adopting a Sulfur Oxides Control Strategy for the Anaconda Copper Smelter at Anaconda, Montana, and requiring the Anaconda Company to comply with the Control Strategy.	11/16/1978	1/10/1980	45 FR 2034.
(3) Flathead County:			

[5] 77 FR 57914 (September 18, 2012).

[6] EJSCREEN is an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators; available at *https://www.epa.gov/ejscreen/what-ejscreen.*

[7] 42 U.S.C. 7607(d)(1)(B).

Title/subject	State effective date	Notice of final rule date	NFR citation
Air Quality Permit #2667–M, Dated 1/24/92. Plum Creek Manufacturing, Inc.	1/24/1992	4/14/1994	59 FR 17700.
Stipulation—A–1 Paving, In the Matter of Compliance of A–1 Paving, Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Equity Supply Company, In the Matter of Compliance of Equity Supply Company.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Flathead Road Department #1, In the Matter of Compliance of Flathead Road Department, Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Flathead Road Department #2, In the Matter of Compliance of Flathead Road Department, Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Klingler Lumber Company, In the Matter of Compliance of Klinger Lumber Company, Inc., Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—McElroy & Wilkens, In the Matter of Compliance of McElroy and Wilkens, Inc., Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Montana Mokko, In the Matter of Compliance of Montana Mokko, Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Pack and Company, In the Matter of Compliance of Pack and Company, Inc., Kalispell, Montana.	9/7/1993	3/19/1996	61 FR 11153.
Stipulation—Pack Concrete, In the Matter of Compliance of Pack Concrete, Inc., Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
Stipulation—Plum Creek, In the Matter of Compliance of Plum Creek Manufacturing, L.P., Kalispell, Montana.	9/17/1993	3/19/1996	61 FR 11153.
(4) Gallatin County:			
GCC Three Forks, LLC's Trident Plant October 18, 2019 Board Order Findings of Fact, Conclusions of Law, and Order. Setting Air Pollutant Emission Limits For Revision of the State Implementation Plan Concerning Protection of Visibility, Appendix A.	10/18/2019	6/26/2023	[INSERT **FEDERAL REGISTER** CITATION].
(5) Jefferson County:			
Ash Grove Cement Company's Montana City Plant October 18, 2019 Board Order Findings of Fact, Conclusions of Law, and Order. Setting Air Pollutant Emission Limits For Revision of the State Implementation Plan Concerning Protection of Visibility, Appendix A.	10/18/2019	6/26/2023	[INSERT **FEDERAL REGISTER** CITATION].
(6) Lewis and Clark County:			
Total Suspended Particulate NAAQS—East Helena, ASARCO Application for Revisions of Montana State Air Quality Control Implementation Plan—Only as it applies to Total Suspended Particulate.	4/24/1979	1/10/1980	45 FR 2034.
Sulfur Dioxide NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Stipulation—1994 March 15.	3/15/1994	1/27/1995	60 FR 5313.
Sulfur Dioxide NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Exhibit A—Asarco Emission Limitations and Conditions, Asarco Incorporated, East Helena, Montana.	3/15/1994	1/27/1995	60 FR 5313.
Asarco Board Order—1994 March 18. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation Plan Relating to Control of Sulfur Dioxide Emissions from the Lead Smelter Located at East Helena, Montana, owned and operated by Asarco Incorporated.	3/18/1994	1/27/1995	60 FR 5313.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, American Chemet Stipulation—1995 June 30.	6/30/1995	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, American Chemet Board Order—1995 August 4.	8/4/1995	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Exhibit A—American Chemet Emissions Limitations and Conditions, American Chemet Corporation, East Helena, Montana.	6/10/2013	3/28/2018	83 FR 13196.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Stipulation—1996 June 11.	6/11/1996	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Board Order—1996 June 26.	6/26/1996	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Exhibit A—Asarco Emission Limitations and Conditions with attachments 1–7, Asarco Lead Smelter, East Helena, Montana.	6/26/1996	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Stipulation—1998 August 13.	8/28/1998	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Board Order—1998 August 28.	8/28/1998	6/18/2001	66 FR 32760.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Stipulation—2000 July 18.	9/15/2000	6/18/2001	66 FR 32767.
Lead NAAQS—Board Orders, Stipulations, Exhibits, and Attachments, Asarco Board Order—2000 September 15.	9/15/2000	6/18/2001	66 FR 32767.

Title/subject	State effective date	Notice of final rule date	NFR citation
(7) Lincoln County:			
Board Order—1994 December 16 (Stimson Lumber). In the Matter of Compliance of Stimson Lumber Company, Libby, Montana.	12/16/1994	9/30/1996	61 FR 51014.
Air Quality Permit #2627–M Dated 7/25/91. Stimson Lumber Company (formerly Champion International Corp).	3/19/1993	8/30/1994	59 FR 44627.
Stipulation—Stimson Lumber. In the Matter of Compliance of Stimson Lumber Company, Libby, Montana.	12/16/1994	9/30/1996	61 FR 51014.
(8) Missoula County:			
Air Quality Permit #2303M, Dated 3/20/92. Louisiana-Pacific Corporation.	3/20/1992	1/18/1994	59 FR 2537.
Air Quality Permit #2589M, Dated 1/23/92. Stone Container Corporation.	1/24/1992	1/18/1994	59 FR 2537.
(9) Rosebud County:			
1980 October 22 Permit for Western Energy Company	10/22/1980	4/26/1985	50 FR 16475.
Talen Montana, LLC's Colstrip Steam Electric Station, Units 1 and 2 October 18, 2019 Board Order Findings of Fact, Conclusions of Law, and Order. Setting Air Pollutant Emission Limits For Revision of the State Implementation Plan Concerning Protection of Visibility, Appendix A.	10/18/2019	6/26/2023	[INSERT **FEDERAL REGISTER** CITATION].
(10) Silver Bow County:			
Air Quality Permit #1636–06 dated 8/22/96. Rhone-Poulenc Basic Chemicals Company.	8/22/1996	12/6/1999	64 FR 68034.
Air Quality Permit #1749–05 dated 1/5/94. Montana Resources, Inc	1/5/1994	3/22/1995	60 FR 15056.
(11) Yellowstone County:			
Cenex June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Cenex June 12, 1998 Exhibit A (with 3/17/00 Revisions) Emission Limitations and Other Conditions.	3/17/2000	5/22/2003	68 FR 27908.
Cenex March 17, 2000 Board Order and Stipulation. In the Matter of the Application of the Department of Environmental Quality for Revision of the Montana State Air Quality Control Implementation Plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	3/17/2000	5/22/2003	68 FR 27908.
Conoco June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Conoco June 12, 1998 Exhibit A. Emission Limitations and Other Conditions.	6/12/1998	5/2/2002	67 FR 22168.
Exxon June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation Plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Exxon June 12, 1998 Exhibit A (with 3/17/00 Revisions). Emission Limitations and Other Conditions.	3/17/2000	5/22/2003	68 FR 27908.
Exxon March 17, 2000 Board Order and Stipulation. In the Matter of the Application of the Department of Environmental Quality for Revision of the Montana State Air Quality Control Implementation Plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	3/17/2000	5/22/2003	68 FR 27908.
Montana Power June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Montana Power June 12, 1998 Exhibit A, Emission Limitations and Conditions.	6/12/1998	5/2/2002	67 FR 22168.
Montana Sulphur & Chemical Company June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Montana Sulphur & Chemical Company June 12, 1998 Exhibit A. Emission Limitations and Other Conditions.	6/12/1998	5/2/2002	67 FR 22168.

Title/subject	State effective date	Notice of final rule date	NFR citation
Western Sugar June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Western Sugar June 12, 1998 Exhibit A. Emission Limitations and Other Conditions.	6/12/1998	5/2/2002	67 FR 22168.
Yellowstone Energy Limited Partnership June 12, 1998 Board Order and Stipulation. In the Matter of the Application of the Department of Health and Environmental Sciences for Revision of the Montana State Air Quality Control Implementation Plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	6/12/1998	5/2/2002	67 FR 22168.
Yellowstone Energy Limited Partnership June 12, 1998 Exhibit A (with 3/17/00 revisions) Emission Limitations and Other Conditions.	3/17/2000	5/22/2003	68 FR 27908.
Yellowstone Energy Limited Partnership March 17, 2000 Board Order and Stipulation. In the Matter of the Application of the Department of Environmental Quality for Revision of the Montana State Air Quality Control Implementation Plan Relating to Control of Sulfur Dioxide Emissions in the Billings/Laurel Area.	3/17/2000	5/22/2003	68 FR 27908.
(12) Other:			
JE Corette Steam Electric Station October 18, 2019 Board Order Findings of Fact, Conclusions of Law, and Order. Setting Air Pollutant Emission Limits For Revision of the State Implementation Plan Concerning Protection of Visibility, Appendix A.	10/18/2019	6/26/2023	[INSERT **FEDERAL REGISTER** CITATION].

* * * * *

§ 52.1396 [Removed and Reserved]

■ 3. Remove and reserve § 52.1396.

[FR Doc. 2023–13464 Filed 6–23–23; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 423

Steam Electric Power Generating Point Source Category

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 40 of the Code of Federal Regulations, Parts 400 to 424, revised as of July 1, 2022, in section 423.16, duplicate paragraphs (e) and (g) are removed.

[FR Doc. 2023–13557 Filed 6–23–23; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970–AC90

Removal of the Vaccine Requirements for Head Start Programs

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule removes the vaccine and testing requirements included in the Interim Final Rule with Comment Period (IFC) titled, ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs,'' which the Administration for Children and Families published on November 30, 2021. Specifically, this rescission removes the requirement from the Head Start Program Performance Standards (HSPPS) that all Head Start staff, contractors whose activities involve contact with or providing direct services to children and families, and volunteers working in classrooms or directly with children are fully vaccinated for COVID–19. The associated HSPPS requirement that staff who are exempt from the vaccination requirement have ''at least weekly'' COVID–19 testing is also removed.

DATES: *Effective date:* This final rule is effective June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Kate Troy, OHS, at *HeadStart@eclkc.info* or 1–866–763–6481. Telecommunications Relay Service users can first dial 7–1–1, then share the 1–866–763–6481 number with the operator.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

(1) Purpose of the Regulatory Action

The purpose of this regulatory action is to remove the COVID–19 vaccination and testing requirements established by the Interim Final Rule with Comment Period (IFC), *Vaccine and Mask Requirements to Mitigate the Spread of COVID–19 in Head Start Programs,* which ACF issued on November 30, 2021 (86 FR 68052), from the Head Start Program Performance Standards (HSPPS). Specifically, this final rule removes the requirement that all Head Start staff, contractors whose activities involve contact with or providing direct services to children and families, and volunteers working in classrooms or directly with children are fully

vaccinated for COVID–19. Accordingly, the removal of the vaccine requirement also removes the related ''at least weekly testing'' requirement that staff who are granted an exemption from the vaccine requirement undergo. These requirements are no longer part of the HSPPS.

Factors that have led ACF to remove these requirements include (1) the expiration of the COVID–19 Public Health Emergency on May 11, 2023 declared by the Secretary of Health and Human Services under the Public Health Service Act and the national emergency concerning COVID–19 ended on April 10, 2023 when the President signed Public Law 118–3, (2) the fact that Head Start programs are required, through a final rule issued on January 6, 2023, to have an evidence-based COVID–19 mitigation policy included in their policies and procedures, and (3) comments received on the IFC (86 FR 68052).

HHS finds good cause for promulgating this final rule with an immediate effective date to promote efficient planning and ease of implementation. A delayed effective date could harm Head Start programs' ability to plan for the upcoming program year, as many Head Start programs use the summer months to recruit and hire staff. Any confusion or uncertainty created by the continued presence of the COVID–19 vaccination and testing requirements within the HSPPS could prevent programs from hiring otherwise qualified staff during the typical hiring season. Further, delays in hiring staff for the upcoming program year ultimately limits the number of children and families served by Head Start. This outcome is contrary to the public interest and subverts the intended purpose of this regulatory action.

(2) Summary of Costs and Benefits

This final rule removes the COVID–19 vaccination and testing requirements established on November 30, 2021 through an Interim Final Rule with Comment (IFC), ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs.'' [1] In this analysis, we evaluate the impacts of the final rule in comparison to a primary analytic baseline scenario in which these IFC requirements continue over the time horizon of the analysis. We also discuss the impacts in comparison to an alternative baseline scenario of no vaccination and testing requirements.

The final rule will result in fewer COVID–19 tests performed under the testing requirement for individuals granted an exemption from the vaccine requirement. This analysis estimates $16.8 million in cost savings associated with fewer tests performed. The final rule will also result in reduced vaccine uptake among some individuals hired by Head Start programs over the time horizon of this analysis, who would become fully vaccinated under the IFC but who will not become fully vaccinated without the vaccination requirement. We estimate $1.7 million in cost savings associated with fewer new hires becoming fully vaccinated. We also identify foregone benefits in the form of reduced COVID–19 mortality and morbidity risks associated with vaccination. We monetize these mortality risks using a value per statistic life approach and report a primary value of these disbenefits of about $0.7 million. Over a one-year time horizon, we estimate that this final rule will result in about $18.5 million in total cost savings. Subtracting disbenefits from the cost savings, we conclude that this final rule will result in net benefits of about $17.8 million.

These estimates are reported in 2022 dollars and do not depend on the choice of 3% or 7% discount rate. As discussed in greater detail in the full analysis, we acknowledge some uncertainty in these estimates, including that some Head Start programs likely adopted evidence-based COVID–19 mitigation policies that include testing or vaccination strategies.

We have developed a comprehensive regulatory impact analysis that assesses the impacts of the final rule. The full analysis of economic impacts is available Section VIII of this document.

II. Background

Since its inception in 1965, Head Start has been a leader in supporting children from low-income families in reaching kindergarten healthy and ready to thrive in school and life. The program was founded on research showing that health and wellbeing are pre-requisites to maximum learning and improved short- and long-term outcomes. In fact, OHS identifies health as the foundation of school readiness.

The Head Start Program Performance Standards (HSPPS) require programs to comply with state immunization enrollment and attendance requirements and to work with families to ensure children who are behind on immunizations or other care get on a schedule to catch up (45 CFR 1302.15(e) and 1302.42(b)(1)). Additionally, education, family service, nutrition, and health staff help children learn healthy habits, monitor each child's growth and development, and help parents access needed health care.

It is vitally important that the Head Start program itself is safe for all children, families, and staff. For this reason, the HSPPS specify that the program must ensure Head Start staff do not pose a significant risk of communicable disease (45 CFR 1302.93(a)). Ensuring that children and families can benefit from program services as safely as possible is OHS' highest priority. While this is always important, the COVID–19 pandemic highlighted the need to ensure staff are as protected as possible so that young children are also protected. At the time of the IFC's publication, November 30, 2021, the COVID–19 vaccine was the most effective risk reduction strategy available to avoid severe illness, hospitalization, and death, as well as the most important measure for reducing risk for SARS–CoV–2 transmission [2] for the predominant variants of SARS–CoV–2. Data at the time suggested fully vaccinated staff were at much lower risk of infection and therefore, posed lower transmission risk to the young unvaccinated children in their care.[3] Young children who get the virus can also spread it to others in their homes and communities. Ensuring Head Start staff were fully vaccinated thus had the ancillary benefit of significantly reducing the possibility of the program playing an unwitting part in community spread of SARS–CoV–2.

ACF published an Interim Final Rule with Comment Period (IFC) in the **Federal Register** on November 30, 2021 (86 FR 68052). ACF issued the IFC on the basis of its authority in Section 641A of the Head Start Act, which allows the Secretary to ''modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs,'' including ''administrative and financial management standards,'' ''standards relating to the condition and location of facilities (including indoor air quality assessment standards, where appropriate) for such agencies, and programs,'' and ''such other standards as the Secretary finds to be appropriate,'' 42 U.S.C. 9836a(a)(1)(C), (D), and (E). In developing these modifications, the Secretary included

[1] 86 FR 68052.

[2] Centers for Disease Control and Prevention. ''Science Brief: COVID Vaccines and Vaccination.'' *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html.*

[3] CDC. ''Overview of Testing for SARS–CoV–2 (COVID–19)'' October 22, 2021. Available at: *https://www.cdc.gov/coronavirus/2019-ncov/hcp/testing-overview.html.*

relevant considerations pursuant to section 641A(a)(2) of the Head Start Act, 42 U.S.C. 9836a(a)(2).[4] The Secretary consulted with experts in child health, including pediatricians, a pediatric infectious disease specialist, and the recommendations of the CDC and FDA.[5] [6] [7] [8] The Secretary considered OHS's past experience with the longstanding health and safety Head Start Program Performance Standards that have sought to protect Head Start staff and participants from communicable and contagious diseases. The Secretary also considered the circumstances and challenges typically facing children and families served by Head Start agencies. Challenges considered included the disproportionate effect of COVID–19 on low-income communities served by Head Start agencies and the potential for devastating consequences for children and families of program closures and service interruptions due to SARS–CoV–2 exposures. Based on all these factors, the Secretary found it necessary and appropriate to set health and safety standards for the condition of Head Start facilities that help to reduce transmission of the SARS–CoV–2 and to help avoid severe illness, hospitalization, and death among program participants.

As of Jan. 1, 2022,[9] [10] following a decision by the United States District Court for the Northern District of Texas and the Western District of Louisiana, implementation and enforcement of the IFC was preliminarily enjoined in the following 25 states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming. Head Start, Early Head Start, and Early Head Start-Child Care Partnership grant recipients in those 25 states were not required to comply with the IFC pending future developments in the litigation. The IFC remained in effect in all other states, the District of Columbia, and U.S. territories.

As of the date of publication of the IFC, children under the age of 5 were not eligible for the COVID–19 vaccine. On June 17, 2022, the U.S. Food and Drug Administration (FDA) authorized the emergency use of the Moderna and Pfizer-BioNTech COVID–19 vaccines to include children 6 months through 5 years of age. While becoming fully vaccinated takes time, and uptake for this cohort has been slow, this remains a critical milestone in the pandemic response. Because vaccinations are now available to children 6 months through 5 years of age, Head Start children are now less vulnerable to the effects of COVID–19. COVID–19 vaccines continue to protect against severe disease, hospitalization, and death in children and adolescents.

On March 31, 2023, the United States District Court for the Northern District of Texas vacated the Vaccine and Mask Requirements to Mitigate the Spread of COVID–19 in Head Start Programs, 86 FR 68052 (Nov. 30, 2021) (the ''Interim Final Rule'' or ''IFC''). That decision took effect on April 7, 2023. Because of this ruling, as of April 7, there is no longer a Head Start requirement for vaccination and testing for Head Start, Early Head Start, and Early Head Start-Child Care Partnership grant recipients in all states, tribes, and territories.

On April 10, 2023, President Biden signed legislation that ended the COVID–19 national emergency declared by the President under the National Emergencies Act. On May 11, 2023, the COVID–19 public health emergency expired.

III. Rationale for the Rescission of the Vaccine Requirements

In enacting the IFC, OHS pointed to the substantial evidence at the time of the efficacy of COVID–19 vaccines and the use of masks in reducing transmission of SARS–CoV–2, offering both personal and communal benefits. The COVID–19 vaccine was the most effective risk reduction strategy available to avoid severe illness, hospitalization, and death, as well as the most important measure for reducing risk for SARS–CoV–2 transmission [11] for the predominant variants of SARS–CoV–2.

The rationale for the removal of the vaccination requirements through this Final Rule is threefold. First, the Public Health Emergency (PHE) declaration came to an end on May 11, 2023 and the national emergency concerning COVID–19 ended on April 10, 2023 when the President signed Public Law 118–3. While vaccination remains one of the most important tools in advancing the health and safety of individuals, this phase of the response is different than it was when ACF required vaccination of Head Start staff.[12] [13] [14] [15] [16] As of May 1, 2023, COVID–19 deaths have declined by 97%, and hospitalizations are down nearly 81%, since November 2021.[17] Globally, COVID–19 deaths are at their lowest levels since the start of the pandemic.[18] Additionally, due to the nature of a prolonged pandemic, the majority of Americans have experienced multiple immunization effects—natural and inoculative. Data indicate infection- and vaccine-induced population immunity in the United States was 95% by December 2021.[19] To mitigate the consequences of the pandemic, approximately 675 million COVID–19 vaccine doses were administered, including 55 million updated (bivalent) booster doses.[20] Relatedly, and

[4] Not all the listed considerations are included because they are only relevant to certain standards, such as curriculum.

[5] CDC. ''Science Brief: COVID Vaccines and Vaccination.'' *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html.*

[6] CDC. ''Delta Variant: What We Know About the Science.'' August 26, 2021. Available at: *https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html.*

[7] Trends in COVID–19 Cases, Emergency Department Visits, and Hospital Admissions Among Children and Adolescents Aged 0–17 Years—United States, August 2020–August 2021 | MMWR.

[8] *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status* MMWR Morb Mortal Wkly Rep 2021;70:1255–1260. DOI: *http://dx.doi.org/10.15585/mmwr.mm7036e2*.

[9] *Texas et al.* v. *Becerra, et al.,* No. 21–cv–00300, 2021 WL 6198109 (N.D. Tex. Dec. 31, 2021).

[10] *Louisiana, et al.* v. *Becerra, et al.,* 21–cv–04370, 2022 WL 16571 (Jan. 1, 2022 W.D. La.).

[11] CDC. ''Science Brief: Vaccines and Vaccination.'' *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html.*

[12] Trends in COVID–19 Cases, Emergency Department Visits, and Hospital Admissions Among Children and Adolescents Aged 0–17 Years—United States, August 2020–August 2021 | MMWR.

[13] *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status* MMWR Morb Mortal Wkly Rep 2021;70:1255–1260. DOI: *http://dx.doi.org/10.15585/mmwr.mm7036e2.*

[14] *https://covid.cdc.gov/covid-data-tracker/#covidnet-hospitalizations-vaccination.*

[15] Johnson AG, Amin AB, Ali AR, *et al.* COVID–19 Incidence and Death Rates Among Unvaccinated and Fully Vaccinated Adults with and Without Booster Doses During Periods of Delta and Omicron Variant Emergence—25 U.S. Jurisdictions, April 4–December 25, 2021. MMWR Morb Mortal Wkly Rep 2022;71:132–138. DOI: *http://dx.doi.org/10.15585/mmwr.mm7104e2externalicon.*

[16] Centers for Disease Control and Prevention. ''Science Brief: Vaccines and Vaccination.'' *https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html.*

[17] Centers for Disease Control and Prevention. COVID Data Tracker. Atlanta, GA: U.S. Department of Health and Human Services, CDC; 2023, May 26. *https://covid.cdc.gov/covid-data-tracker.*

[18] *https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/01/the-biden-administration-will-end-covid-19-vaccination-requirements-for-federal-employees-contractors-international-travelers-head-start-educators-and-cms-certified-facilities/.*

[19] Jones JM, Opsomer JD, Stone M, *et al.* Updated U.S. infection- and vaccine-induced SARS–CoV–2 seroprevalence estimates based on blood donations, July 2020–December 2021. JAMA 2022;328:298–301. *https://doi.org/10.1001/jama.2022.9745* PMID:35696249.

[20] CDC. COVID–19 data review: update on COVID–19-related mortality. Atlanta, GA: U.S.

particularly impactful for the population Head Start programs serve, is the availability and uptake of the COVID–19 vaccine for young children and its inclusion in the CDC's Immunization Schedules.[21] Note that there is waning immunity following vaccination, however, immunization efforts are improving due to greater access to vaccination and more widespread natural immunity. Though COVID–19 is still an ongoing public health issue, it is no longer a societal emergency as it was at the onset of the pandemic and no longer necessitates the same level of federal response. Similarly, the change in pandemic conditions reflected in the termination of the national emergency and public health emergency likewise would make it appropriate to rescind the masking requirement if that requirement were still in effect.

Second, on January 6, 2023, ACF issued a Final Rule (88 FR 993) requiring Head Start grant recipients to have an evidence-based COVID–19 mitigation policy, which considers multiple mitigation strategies such as vaccination, masking, ventilation, testing, and staying home when sick that can be scaled up or down as COVID–19 conditions necessitate. ACF strongly recommends that Head Start programs use vaccines and tests as part of their mitigation policy to reduce the spread of COVID–19 and reduce the likelihood of mortality or morbidity from infection. Head Start programs may choose to include their own requirements to support vaccination efforts, including for example, requiring staff remain up to date on COVID–19 vaccines, sharing information on COVID–19 vaccination with staff and families, and/or partnering with local agencies to increase vaccination access. With this new requirement of an evidence-based COVID–19 mitigation policy in place, Head Start grant recipients are better positioned to respond to future surges of SARS–CoV–2.

Finally, as discussed in detail below, ACF considered public comments on the IFC when making the decision to rescind the vaccine and testing requirements.

Department of Health and Human Services, CDC; 2023. Accessed April 14, 2023. *https://www.cdc.gov/coronavirus/2019-ncov/science/data-review/index.html.*

[21] CDC. ''Child and Adolescent Immunization Schedule by Age.'' Recommendations for Ages 18 Year and Younger, United States, 2023. Available at: *https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html.*

IV. Overview of Public Comments on the Interim Final Rule With Comment Period

The comment period for the IFC was open for 30 days and closed on December 30, 2021. OHS received 2,794 comments, of which 2,690 were unique submissions. Most comments came from individuals, including Head Start directors, other Head Start staff members, Members of Congress, and parents. A smaller subset of comments came from associations on behalf of their membership.

We discussed many of these comments in the Final Rule issued on January 6, 2023, including global comments pertaining to the perceived burden of the vaccine and masking requirements, the reported challenged to enrollment, the implementation timeline, and the open-ended, indefinite nature of the requirements. In Part V. Public Comments Analysis of this Final Rule, we focus on comments that are specific to the vaccination requirement, and the associated ''at least weekly'' testing requirement for those who are granted an exemption to the vaccination requirement. These comments account for approximately one-quarter of the comments received on the IFC.

V. Public Comments Analysis

In this section, we provide a summary of the comments we received on the IFC related to the vaccine and testing requirements outlined in Section 1302.93(a)(1)–(2) and 1302.94(a)(1)–(2).

Comment: Commenters raised concerns with the lack of the termination date for the vaccine requirements. In the IFC, ACF invited comment on the decision to leave an undetermined end date or set a finite end date, such as 6 months from the effective date of the rule. Programs reported concerns that the indefinite nature of the requirement impedes their ability to update their internal policies, inform staff of expectations, update parents and families, budget for next year and outline expectations for prospective staff and families. Several commenters noted that public health emergency declarations come to an end and objected that the vaccine and testing requirements were ''made permanent'' by including them in the Head Start Program Performance Standards.

Response: ACF is removing the vaccine requirement in this final rule, which means Head Start programs are no longer determining which staff are exempt from the vaccine requirement and requiring ''at least weekly'' testing for those granted an exemption unless their program opts to include such requirements under its COVID mitigation policy.

Comment: Commentors raised concerns about providers paid partially with Head Start funds who are subject to the Head Start vaccination requirement but are not required by their employer to be vaccinated. There is concern that school districts and other partners that do not have a masking or vaccination requirement will opt out of partnerships and consider withdrawing contracts. This would result in the loss of services to children and families—a loss in classroom space, transportation options, etc. Similarly, there was also concern that children in Head Start programs situated within partnerships would be unfairly singled out and/or discriminated against by other children in the setting (who are not subject to the mask requirement).

Response: OHS understands this concern and appreciates the comments from those who described the partnerships Head Start programs have established and sustained in their communities over many years. OHS is removing the national vaccine requirement in this final rule and, in doing so, has addressed the concerns from these commenters.

As noted, ACF issued a Final Rule, Mitigating the Spread of COVID–19 in Head Start Programs, on January 6, 2023, that requires Head Start programs to have an evidence-based COVID–19 mitigation policy developed in consultation with the program's Health Services Advisory Committee (HSAC). ACF recommends that Head Start programs use vaccines and tests as part of their mitigation policy to reduce the spread of COVID–19 and reduce the likelihood of mortality or morbidity from infection. Head Start programs may choose to include their own requirements to support vaccination efforts, including for example, requiring staff remain up to date on COVID–19 vaccination, sharing information on COVID–19 vaccination with staff and families, and/or partnering with local agencies to increase vaccination access.

Comment: Commentors were concerned about the impact of these requirements on access to special education services under Individuals with Disabilities Education Act (IDEA). Comments expressed concern that early intervention providers and other professionals providing special education and related services to enrolled children through Part B and C of IDEA, some of whom may not be required to be vaccinated by their employers, are required to be vaccinated under the IFC. There were concerns that

there will be a reduction in children's access to early identification, early intervention, and special education services, which could potentially result in children not receiving services to which they are legally entitled under IDEA if Local Education Agencies (LEA) do not have similar vaccination requirements.

Response: OHS has removed the national vaccine requirement in this final rule and therefore, addressed these concerns. Though special education, early intervention, health service providers and other related service providers (*e.g.,* IDEA Part B/C providers) are neither staff of Head Start programs nor contractors and were never included in the vaccination requirement, the removal of the vaccine requirement should address any concerns about the reduction in services or perceived barriers in services for children in need of early intervention, special education, or related services. Given the critical nature of the services provided through these partnerships, to further address the concerns raised, OHS released an FAQ that made clear these providers were not included in the requirement. Additionally, in partnership with the U.S. Department of Education's Office of Special Education Programs, OHS authored a Dear Colleague Letter and guidance document stating that state and local educational agencies and Head Start programs have responsibilities for implementing IDEA to ensure that children with disabilities enrolled in Head Start programs receive a free appropriate public education in the least restrictive environment.

Comment: Commentors were concerned that those given an exemption were being discriminated against because they were being singled out for testing. Some suggested requiring testing for all, regardless of vaccination status. Others encouraged an opt-out option for all staff with the hopes of fewer staff leaving for employment elsewhere. Conversely, commentors were concerned with the burden imposed on grantees to implement and track weekly testing, especially in rural areas with limited access to tests.

Response: OHS has removed the vaccination requirement and consequently the ''at least weekly'' testing requirement for those staff exempt from the vaccine requirement. Though OHS did not receive any reports of widespread difficulty accessing tests and/or tracking of test results or indication of discrimination on the basis of being singled out for testing, the rescission of this requirement in the final rule should also address any remaining concerns with regard to testing.

Comment: Some commentors reported that Head Start staff do not have to provide their COVID–19 vaccination status or proof of vaccination status because that information is protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Other commentors raised general concerns that the vaccination requirements should not be mandated by their place of employment. Commentors felt that medical requirements are a violation of employee rights and that vaccines should be a personal choice.

Response: In accordance with HHS guidance, HIPAA does not prohibit any person from asking whether an individual has received a particular vaccine, including COVID–19 vaccines. Since 1998, OHS has required that programs ensure staff do not pose a significant risk of communicable disease (45 CFR 1302.93(a)). At the time of the IFC's publication, the COVID–19 vaccine was an important requirement that reduced transmission of SARS–COV–2. While OHS disagrees with these comments, OHS is no longer requiring all Head Start staff, contractors whose activities involve contact with or providing direct services to children and families, and volunteers working in classrooms or directly with children to be vaccinated for COVID–19.

VII. Regulatory Process Matters

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. ACF believes it is not necessary to prepare a family policymaking assessment, see Public Law 105–277, because the action it takes in this final rule will not have any impact on the autonomy or integrity of the family as an institution.

Federalism Assessment Executive Order 13132

Executive Order 13132 requires federal agencies to consult with state and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This rule will not have substantial direct impact on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA) allows Congress to review certain rules issued by federal agencies before the rules take effect. *See* 5 U.S.C. 801(a). The CRA defines such a rule as one that has resulted, or is likely to result, in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. *See* 5 U.S.C. 804(2). The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this action does not fall within the scope of 5 U.S.C. 804(2).

Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.,* minimizes government-imposed burden on the public. In keeping with the notion that government information is a valuable asset, it also is intended to improve the practical utility, quality, and clarity of information collected, maintained, and disclosed.

The PRA requires that agencies obtain OMB approval, which includes issuing an OMB number and expiration date, before requesting most types of information from the public. Regulations at 5 CFR part 1320 implemented the provisions of the PRA and § 1320.3 of this part defines a ''collection of information,'' ''information,'' and ''burden.'' PRA defines ''information'' as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic,

or other media (5 CFR 1320.3(h)). This includes requests for information to be sent to the government, such as forms, written reports and surveys, recordkeeping requirements, and third-party or public disclosures (5 CFR 1320.3(c)). ''Burden'' means the total time, effort, or financial resources expended by persons to collect, maintain, or disclose information.

The existing OMB Control Number for this information collection request (ICR) is 0970–0583. This final rule will remove the majority of reporting requirements approved under this OMB Control Number. The only recordkeeping requirement that will remain is the recordkeeping requirement that grant recipients update their program policies and procedures with the evidence-based COVID–19 mitigation policy, which was required in the final rule published on January 6, 2023 (88 FR 993). There are no new recordkeeping activities associated with this final rule.

VIII. Regulatory Impact Analysis

I. Introduction and Summary

A. Introduction

We have examined the impacts of this final rule under Executive Order 12866, Executive Order 13563, and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe that this final rule is a significant regulatory action as defined by Executive Order 12866. Thus, this rule has been reviewed by the Office of Information and Regulatory Affairs.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the impacts to small entities attributable to the final rule are cost savings, this analysis concludes, and the Secretary certifies, that the final rule will not have a significant economic impact on a substantial number of small entities. These impacts are discussed in detail in the Final Small Entity Analysis.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $177 million, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This final rule will not result in expenditures in any year that meet or exceed this amount.

B. Summary of Benefits and Costs

This final rule removes the COVID–19 vaccination and testing requirements established on November 30, 2021 through an Interim Final Rule with Comment (IFC), ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs.'' [22] In this analysis, we evaluate the impacts of the final rule in comparison to a primary analytic baseline scenario in which these IFC requirements continue over the time horizon of the analysis. We also discuss the impacts in comparison to an alternative baseline scenario of no vaccination and testing requirements.

The final rule will result in fewer COVID–19 tests performed under the testing requirement for individuals granted an exemption from the vaccine requirement. This analysis estimates $16.8 million in cost savings associated with fewer tests performed. The final rule will also result in reduced vaccine uptake among some individuals hired by Head Start programs over the time horizon of this analysis, who would become fully vaccinated under the IFC but who will not become fully vaccinated without the vaccination requirement. We estimate $1.7 million in cost savings associated with fewer new hires becoming fully vaccinated. We also identify foregone benefits in the form of reduced COVID–19 mortality and morbidity risks associated with vaccination. We monetize these mortality risks using a value per statistic life approach and report a primary value of these disbenefits of about $0.7 million. Over a one-year time horizon, we estimate that this final rule will result in about $18.5 million in total cost savings. Subtracting disbenefits from the cost savings, we conclude that this final rule will result in net benefits of about $17.8 million. These estimates are reported in 2022 dollars and do not depend on the choice of 3% or 7% discount rate. As discussed in greater detail in the full analysis, we acknowledge some uncertainty in these estimates, including that some Head Start programs likely adopted evidence-based COVID–19 mitigation policies that include testing or vaccination strategies.

II. Analysis of the Final Rule

A. Background and Baselines

On November 30, 2021, ACF published an interim final rule with comment period on ''Vaccine and Mask Requirements To Mitigate the Spread of COVID–19 in Head Start Programs'' (IFC).[23] The IFC added provisions to the Head Start Program Performance Standards to impose three requirements: [24]

1. Universal masking, with some noted exceptions, for all individuals two years of age and older when there are two or more individuals in a vehicle owned, leased, or arranged by the Head Start program; when they are indoors in a setting where Head Start services are provided; and, for those not fully vaccinated, outdoors in crowded settings or during activities that involve close contact with other people.
2. Vaccination for COVID–19 for Head Start program staff, certain contractors and volunteers by January 31, 2022.
3. For those granted an exemption to the requirement specified in (2), at least weekly testing for current SARS–CoV–2 infection.

On January 6, 2023, ACF published a final rule on ''Mitigating the Spread of COVID–19 in Head Start Programs.'' [25] That final rule modified the IFC to remove the requirement for universal masking for all individuals ages 2 and older, and to require that Head Start programs have an evidence-based COVID–19 mitigation policy, developed in consultation with their Health Services Advisory Committee. It did not address the vaccination and testing requirements of the IFC.

In our analysis of this final rule, we adopt a baseline scenario of the requirements of the November 30, 2021 IFC, as modified by the January 6, 2023 final rule. This choice of baseline includes ongoing impacts associated with the testing requirements. It also includes impacts associated with the vaccination requirement; however, these impacts are limited to individuals who will be newly hired over the time horizon of the analysis, since the effective date of the vaccination requirement for existing staff has passed. As discussed in greater detail in the Preamble, the requirements addressed in this final rule are not in effect as a result of a ruling by the

[22] 86 FR 68052.

[23] Ibid.

[24] Ibid.

[25] 88 FR 993.

United States District Court for the Northern District of Texas. Under an alternative baseline that accounts for this ruling or that compares against a hypothetical future in which the IFC had never been issued, the final rule would result in no benefits or costs.

B. Cost Savings Associated With the Testing Requirement

To estimate the cost savings of removing the testing requirement, we first estimate the number of tests required, and the costs of testing, under our baseline scenario. We follow the general approach of the IFC RIA, with several revisions to the assumptions identified in that analysis. First, the IFC RIA's cost estimates covered 273,000 Head Start staff, consistent with data available at the time that analysis was published and the time horizon it covered. In this RIA, we adopt a lower estimate of 245,700 Head Start staff covered under the baseline scenario. This estimate is consistent with more recent data from Head Start programs, and projections of a 10% reduction in the Head Start workforce over the time horizon of this RIA compared to the period covered in the IFC RIA.[26] Second, the IFC RIA assumed that 5% of Head Start staff would receive an exemption from the vaccine requirement. This likely underestimated the share of staff receiving an exemption, so we increase this estimate to 8.5%. Third, the IFC RIA presented data that 83% Head Start centers were operating in-person or hybrid. Based on that data, the IFC RIA reduced the number of staff requiring testing by 17%, since screening testing would not impact staff at virtual/remote or closed centers. Applying updated data, the RIA for the January 6, 2023 final rule adopted an estimate of 94% of centers operating in-person or hybrid. In this analysis, we assume that 100% of centers operate in-person or hybrid over the time horizon of the analysis.

Combining these assumptions, we estimate that 24,570 staff that are not fully vaccinated would be tested under the baseline scenario. We maintain the assumption of the IFC RIA that each test costs $10. We identify a second cost of time spent testing, adopting an assumption that each test takes 15 minutes to perform. Using a value of time of $29.82 per hour,[27] this is $7.46 in time costs per person tested, or $17.46 in total costs per person tested. Across 24,570 staff tested weekly, this is a weekly cost of testing of $428,869.

Thus, we estimate that the final rule, which removes the testing requirement, would result in $428,869 in weekly cost savings. For the purposes of this analysis, we assume that Head Start programs operate in-person, on average, 9 months per year, or about 39 weeks per year. Multiplying the weekly cost savings by the number of weeks results in $16.8 million in cost savings over one calendar year. We acknowledge several sources of uncertainty in this estimate, each of which may contribute to overestimating these cost savings. First, some Head Start programs likely adopted evidence-based COVID–19 mitigation policies that include testing, thus reducing the impact of this final rule on testing. Second, some individuals that will no longer be required to test weekly will continue to test routinely, or on an ad hoc basis, unrelated to Head Start policies. Third, our baseline scenario assumes 'full compliance' with the IFC, which may overstate the quantity of tests that would be performed under the IFC, even absent the ruling by the United States District Court for the Northern District of Texas.

C. Cost Savings Associated With Removing the Vaccination Requirement

To estimate the cost savings of removing the vaccination requirement, we first estimate the number of individuals who would be newly subject to the vaccination requirement under the baseline scenario over the time horizon of this analysis. Specifically, we estimate the number of individuals who would be hired under the baseline scenario that are not fully vaccinated. To generate this estimate, we adopt an assumption that Head Start programs turnover and hire about 10% of teachers and staff every year, or 24,570 new hires per year. We assume that 20.9% of these new hires are not fully vaccinated, which is consistent with data as of May 10, 2023 that 79.1% of the U.S. population ≥18 years of age have completed a primary series.[28] Thus, over the time horizon of our analysis, we estimate that 5,135 new hires would be subject to the vaccination requirement. Consistent with our approach to estimating testing, we assume that 8.5% of these new hires would receive an exemption from the vaccination requirement. Combining these assumptions, we estimate 4,699 individuals would become fully vaccinated under the baseline scenario.

To monetize the costs associated with the vaccination requirement, we follow the general approach of the IFC RIA, with several revisions to the assumptions identified in that analysis. We retain the IFC RIA's estimates of $80 per person to account for two vaccine doses and the costs of administering those doses. The IFC RIA also included an estimate of 2 hours as the time necessary to receive one COVID–19 vaccine dose, which that analysis describes as intending ''to be inclusive of scheduling time; commuting time; time receiving a vaccine dose; waiting time, including after receiving a vaccine dose to watch for any reactions; and recovery time.'' For this analysis, we identify an additional cost associated with adverse reactions, adopting an assumption of 5.76 hours in time losses across two doses from a broader study of U.S. employer COVID–19 vaccine mandates,[29] or 2.88 hours per dose. These assumptions sum to 4.88 hours in time costs per dose, or 9.76 hours in time costs for two doses. We again adopt a value of time of $29.82 per hour, for $291.04 in time costs per individual across two doses. Combined with the costs of the vaccine doses and the costs of administering doses, this is $371.04 per individual. Across all 4,699 individuals who would become fully vaccinated under the baseline scenario, this is about $1.7 million in costs associated with the vaccine requirement.

Thus, we estimate that the final rule, which removes the vaccination requirement, would result in about $1.7 million in cost savings over one calendar year. We acknowledge several sources of uncertainty in this estimate.

[26] Note it is difficult to determine what share of recruitment and retainment challenges are attributable to this requirement as compared to other causes. ACF is aware that compensation has significantly affected the early childhood workforce shortage and is the number one reason for Head Start staff attrition. Research with the broader early childhood education (ECE) field indicates higher compensation for ECE professionals can improve employment stability and reduce turn-over (and vice versa, with lower wages linked to high turn-over). Additionally, we have no evidence that the workforce challenges differed between Head Start programs required to implement the IFC and those that were not (as a result of litigation that enjoined 25 states).

[27] According to the U.S. Bureau of Labor Statistics, the hourly median wage for Preschool and Kindergarten Teachers in the Child Day Care Services industry is $14.91 per hour. We assume that benefits plus indirect costs equal approximately 100 percent of pre-tax wages, and adjust this hourly rate by multiplying by two, for a fully loaded hourly wage rate of $29.82. U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics, May 2022 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 624400—Child Day Care Services. Median hourly wage. *https://www.bls.gov/oes/current/naics4_624400.htm.*

[28] *https://covid.cdc.gov/covid-data-tracker/.* Accessed May 17, 2023.

[29] Ferranna M, Robinson LA, Cadarette D, Eber MR, Bloom DE. 2023. ''The benefits and costs of U.S. employer COVID–19 vaccine mandates.'' Risk Analysis. Published online January 17, 2023. doi:10.1111/risa.14090.

First, some Head Start programs likely adopted evidence-based COVID–19 mitigation policies that include vaccination, thus reducing the impact of this final rule on vaccination. Second, as noted in the IFC RIA, absent the IFC, Head Start teachers were more likely to be fully vaccinated than the general adult population. If individuals hired over the time horizon of this analysis are similarly more likely to be fully vaccinated than the general adult population, this would also reduce the impact of the final rule on vaccination.

D. Foregone Benefits Associated With the Final Rule

To estimate the forgone benefits associated with removing the vaccination requirement, we follow a simplified version of the approach used in the IFC RIA to estimate the health benefits from reductions in COVID–19 mortality attributable to the IFC. In that analysis, we generated forecasts of COVID–19 outcomes for a baseline scenario and an IFC scenario that were built on projections published by the Institute for Health Metrics and Evaluation (IHME). IHME has paused its COVID–19 modeling, and we have not identified a comparable replacement. For the purposes of identifying the magnitude of the forgone benefits from reduced vaccine uptake under the final rule, we consider a simpler model that adopts a static forecast of observed weekly death rates that vary by vaccine status.

CDC data indicate that, at the time the IFC was issued, the weekly death rate among unvaccinated adults was 18.25 deaths per 100,000 people; and for adults who were vaccinated without an updated booster, 1.02 weekly deaths per 100,000 people.[30] At the time this analysis was prepared, the most recent data readily available indicate that the weekly death rate among unvaccinated adults was 1.07 per 100,000 people; and for adults who were vaccinated without an updated booster, 0.21 weekly deaths per 100,000 people.[31] These weekly death rates include adults of all ages, and are largely driven by deaths among people 65 and older, which represent only a small fraction of the Head Start workforce. Since the impacts we are studying accrue to new hires, we focus on weekly death rates for adults between the ages of 30 and 49. For this age group, the weekly death rate among unvaccinated adults was 0.07 deaths per 100,000 people; and for adults who were vaccinated without an updated booster, 0.03 deaths per 100,000 people.[32]

To apply these estimates, we add assumptions such that the 4,699 individuals who would become fully vaccinated under the baseline scenario will be hired uniformly over the one-year time horizon and that they would be fully vaccinated for exactly half of the year. Thus, assuming weekly death rates remain constant, we would expect about 0.12 deaths among new hires over one year.[33] Under the final rule, these individuals would not become fully vaccinated, and we would expect about 0.17 deaths among new hires over one year.[34] Thus, we estimate that removing the vaccination requirement would result in mortality risk increases equal to 0.05 statistical lives. We monetize these mortality risk increases associated with lower vaccine uptake using a value per statistical life of $12.4 million [35] and report an estimate of forgone benefits of about $0.61 million.[36]

The IFC RIA also contained estimates of morbidity risk reductions associated with the vaccine requirement. As with the mortality estimates, these outcome forecasts were built on projections published by IHME. Lacking comparable projections, we produce an estimate of these forgone benefits by referencing the ratio of the total value of health benefits to the value of mortality benefits estimated in the IFC RIA. Table 25 in the IFC RIA reports a central estimate of the total value of risk reductions of $236.8 million, and $213.4 million as the central estimate of the mortality risk reductions. In that analysis, the total value of the health benefits is about 11% higher than the value of the mortality benefits alone. Thus, in this simplified analysis, we report foregone total benefits associated with removing the vaccination requirement of about $0.67 million, which is about 11% larger than the $0.61 million in mortality benefits estimated above.

We acknowledge several sources of uncertainty in addition to those identified in the previous section. First, the source data on weekly death rates are not adjusted for time since vaccination, which could result in the population estimates of the weekly death rate for vaccinated adults overestimating the weekly death rate for newly vaccinated individuals. If this is the case, then our foregone benefit estimates may be underestimated, all else equal. Second, the relative risk of COVID–19 mortality and morbidity by vaccination status has varied over time and by variant. Moreover, the estimates of the relative risk of COVID–19 mortality by vaccination status used in this analysis serve as a proxy for the effects of vaccination. There may be other factors correlated with vaccination status that also affect mortality and morbidity. Consequently, our approach may overestimate or underestimate the incremental effects of vaccination, which would pass through to our estimates of the forgone benefits of the final rule. Third, COVID–19 deaths and cases have varied over time.

III. Final Small Entity Analysis

We have examined the economic implications of this Final Rule as required by the Regulatory Flexibility Act. This analysis, as well as other sections in this Regulatory Impact Analysis, serves as the Final Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

A. Description and Number of Affected Small Entities

The U.S. Small Business Administration (SBA) maintains a Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS).[37] We replicate the SBA's description of this table:

> This table lists small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2022.
>
> The size standards are for the most part expressed in either millions of dollars (those preceded by ''$'') or number of employees (those without the ''$''). A size standard is the largest that a concern can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the average annual receipts or the average employment of a firm. How to calculate average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

[30] *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status.* Weekly death rates from November 28, 2021.

[31] *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status.* Weekly death rates from February 26, 2023.

[32] *https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status.* Weekly death rates from February 26, 2023.

[33] (0.07+0.03)/2/100,000 * 4,699 * 52 ≈ 0.12.

[34] 0.07/100,000 * 4,699 * 52 ≈ 0.17.

[35] U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. 2021. ''Updating Value per Statistical Life (VSL) Estimates for Inflation and Changes in Real Income.'' *https://aspe.hhs.gov/reports/updating-vsl-estimates.*

[36] As a sensitivity analysis, we adopt a range of VSL estimates between $5.8 million and $18.9 million to report a range of estimates for the forgone benefits of between $0.3 million and $0.9 million.

[37] U.S. Small Business Administration (2023). ''Table of Size Standards.'' March 17, 2023 *https://www.sba.gov/document/support--table-size-standards.*

This final rule will impact small entities in NAICS category 624410, Child Care Services, which has a size standard of $9.5 million dollars. We assume that most Head Start programs, if not all, are below this threshold and are considered small entities.

B. Description of the Impacts of the Rule on Small Entities

Compared to the baseline scenario, this final rule will result in cost savings for Head Start programs. We estimate that the incremental impact of the final rule is about $18.5 million in net cost savings, most of which will accrue to Head Start programs. Across 20,717 centers, we estimate that these cost savings will average $894 in cost savings per center. This analysis concludes that the final rule is not likely to result in a significant impact on a substantial number of small entities.

IX. Tribal Consultation Statement

ACF conducts an average of five tribal consultations each year for tribes operating Head Start and Early Head Start. The consultations are held in four geographic areas across the country: Southwest, Northwest, Midwest (Northern and Southern), and East. The consultations are often held in conjunction with other tribal meetings or conferences, to ensure the opportunity for most of the 150 tribes that operate Head Start and Early Head Start programs to attend and voice their concerns regarding service delivery. We complete a report after each consultation, and then we compile a final report that summarizes the consultations. We submit the report to the Secretary of Health and Human Services (the Secretary) at the end of the year.

Although this rule does not have implications specific to AIAN programs, OHS will continue to collaborate with Tribes on all matters related to the Head Start Program Performance Standards.

January Contreras, Assistant Secretary of the Administration for Children and Families, approved this document on May 8, 2023.

List of Subjects in 45 CFR Part 1302

COVID–19, Evidence-based COVID–19 mitigation policy, Education of disadvantaged, Grant programs—social programs, Head Start, Health care, Monitoring, Safety, Vaccination.

Dated: June 20, 2023.

Xavier Becerra,

Secretary, Department of Health and Human Services.

Accordingly, the final rule amending 45 CFR part 1302, which was published at 86 FR 68052, is adopted as final with the following changes:

PART 1302—PROGRAM OPERATIONS

■ 1. The authority citation for part 1302 continues to read as:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1302.93 [Amended]

■ 2. Amend § 1302.93 by removing paragraphs (a)(1) and (2).

§ 1302.94 [Amended]

■ 3. Amend § 1302.94 by removing paragraphs (a)(1) and (2).

[FR Doc. 2023–13423 Filed 6–23–23; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 230615–0151; RTID 0648–XC711]

Pacific Halibut Fisheries of the West Coast; Management Measures for the 2023 Area 2A Pacific Halibut Directed Commercial Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing harvest specifications and management measures for the 2023 non-tribal directed commercial Pacific halibut fishery that operates south of Point Chehalis, WA (46°53.30′ N lat.) in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. Specifically, this final rule establishes directed commercial fishing periods and fishing period catch limits by vessel size class for the 2023 fishing season. These actions are intended to conserve Pacific halibut and provide fishing opportunity where available.

DATES: This rule is effective on June 26, 2023.

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 500 W Ocean Blvd., Long Beach, CA 90802. For information regarding all halibut fisheries and general regulations not contained in this rule, contact the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199–1287.

FOR FURTHER INFORMATION CONTACT: Katie Davis, West Coast Region, NMFS, (323) 372–2126, *katie.davis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773–773k, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Halibut Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). The Halibut Act requires that the Secretary shall adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and Halibut Act. 16 U.S.C. 773c. The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State, with concurrence from the Secretary of Commerce. These management measures include coastwide and area-specific mortality limits (also known as allocations and subarea allocations), coastwide season dates, gear restrictions, Pacific halibut size limits for retention, and logbook requirements, among others. The IPHC apportions allocations for the Pacific halibut fishery among regulatory areas: Area 2A (Washington, Oregon, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (subdivided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska).

Additionally, as provided in the Halibut Act, the Regional Fishery Management Councils having authority for the geographic area concerned may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)). The Pacific Fishery Management Council (Council) has exercised this authority by developing a catch sharing plan guiding the allocation of halibut across the various sectors and management of fisheries for

the IPHC's regulatory Area 2A. At its annual meeting held January 22–27, 2023, the IPHC adopted an Area 2A fishery constant exploitation yield (FCEY) of 1.52 million pounds (689.46 metric tons (mt)) of Pacific halibut. NMFS published this catch limit and fishery allocations in the **Federal Register** on March 7, 2023 (88 FR 14066), after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. The FCEY was derived from the total constant exploitation yield (TCEY) of 1.65 million pounds for Area 2A, which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. Based on this FCEY for Area 2A and the allocation framework in the Council's catch sharing plan, the IPHC also adopted a non-tribal directed commercial fishing allocation of 257,819 pounds (116.94 mt).

On December 5, 2022, NMFS published a final rule that established NMFS' authority to issue permits for Area 2A halibut fisheries, as well as a regulatory framework for the area 2A directed commercial fishery (87 FR 74322). NMFS is implementing the following 2023 harvest specifications and management measures for the directed commercial fishery based on that regulatory framework.

2023 Directed Commercial Fishing Periods

Fishing periods are the time during the annual halibut season when directed commercial fishing for Pacific halibut is allowed, and may span multiple days. Through this final rule NMFS is establishing two fishing periods, both of which are 58 hours in length. The first fishing period begins on June 27, 2023, at 8 a.m. and closes on June 29, 2023, at 6 p.m. The second fishing period will occur 2 weeks later, beginning on July 11, 2023, at 8 a.m. and closing on July 13, 2023, at 6 p.m. Following these two fishing periods, if the fishery has not attained nor is projected to have attained the directed commercial allocation, NMFS may determine that subsequent fishing period(s) are necessary to attain the allocation. Any additional fishing period(s) and applicable fishing period limits will be announced in the **Federal Register** through inseason action.

2023 Directed Commercial Vessel Limits

A fishing period limit, or vessel limit, is the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period. Each vessel may retain no more than the current fishing period limit of Pacific halibut for its vessel class, which is determined by vessel length (see Table 1). This final rule implements directed commercial fishing period limits based on the allocation for the directed commercial fishery in Area 2A and the number of permits issued by vessel size class. Vessel limits are determined by vessel size class based on the number and sizes of the vessels for which permits were issued, as well as historical participation, and are intended to ensure that the Area 2A directed commercial fishery does not exceed the directed commercial allocation, while also providing fair and equitable access across participants to an attainable amount of harvest. The 2023 Pacific halibut directed commercial fishery permit application deadline was February 14, 2023. NMFS received 154 applications across eight vessel size classes (A–H) and used that information in determining the vessel limits. If NMFS determines fishing period(s) in addition to those in this rule is warranted, NMFS will set the fishing period limits equal across all vessel classes. If NMFS determines that the directed commercial fishery has attained its annual allocation or is projected to attain its allocation if additional fishing was to be allowed, the Regional Administrator will take action to close the fishery.

2023 Non-Tribal Directed Commercial Fishery Management Measures

The Area 2A non-tribal directed commercial fishery south of Point Chehalis, WA (46°53.30′ N lat.), will open on June 27 at 8 a.m. and close on June 29 at 6 p.m. and will open July 11 at 8 a.m. and close on July 13 at 6 p.m. The fishery may be adjusted inseason consistent with 50 CFR 300.63.

TABLE 1—VESSEL LIMITS BY SIZE CLASS FOR THE 2023 FIRST AND SECOND FISHING PERIODS OF THE AREA 2A PACIFIC HALIBUT NON-TRIBAL DIRECTED COMMERCIAL FISHERY

Vessel class	Length range (feet)	Fishing period limit (pounds)
A	1–25	2,716
B	26–30	2,716
C	31–35	2,716
D	36–40	4,092
E	41–45	4,092
F	46–50	5,454
G	51–55	5,454
H	56+	6,136

NMFS published a proposed rule on April 14, 2023 (88 FR 22992), and received no public comments.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) allows the Regional Council, having authority for a particular geographical area, to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations.

This action is exempt from review under E.O. 12866.

NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the 2023 Area 2A directed commercial fishery specifications (*i.e.,* fishing periods and vessel limits) in this rule effective in time for the start of the directed commercial Pacific halibut fishery on June 27, 2023, pursuant to 5 U.S.C. 553(d)(3). The fishery specifications in this rule follow the established framework for annual specifications for the IPHC regulatory Area 2A directed commercial fishery at 50 CFR 300.63(e). Additionally, the fishing periods and fishing period catch limits in this rule are consistent with

how the fishery has been managed by the IPHC in prior years. This final rule specifies fishery management measures only for the 2023 directed commercial fishery and does not include changes to the codified regulations.

Delaying the effective date of the specifications would be contrary to the public interest. A delay in the effectiveness of these measures for 30 days would result in the fisheries not opening on their intended timelines and on the dates the affected public are expecting—the directed commercial fishery season dates and vessel limits are consistent with how this fishery has been managed and operated in recent years, the framework for which was established through a proposed (87 FR 44318; July 26, 2022) and final rulemaking (87 FR 74322; December 5, 2022), following multiple public meetings of the Council and the IPHC where public comments were accepted. If the commercial fisheries do not open on their intended timeline, there will likely be an opportunity cost for those commercial entities that anticipated these fishing dates, causing economic harm. A delay in the start of the fishing season may risk the ability to attain the directed commercial allocation, potentially affecting the ability for the fisheries to attain the overall Area 2A catch limit set by the IPHC.

Therefore, a delay in effectiveness of the management measures would likely cause economic harm to the commercial fisheries. As a result of the harm to the commercial fishery that could be caused by delaying the effectiveness of these management measures, NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the specifications effective upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act. There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Authority: 16 U.S.C. 773–773k.

Dated: June 15, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2023–13516 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 121
Monday, June 26, 2023

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1389; Airspace Docket No. 23–AGL–19]

RIN 2120–AA66

Amendment of Class E Airspace; Quincy, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Quincy, IL. The FAA is proposing this action as the result of an airspace review due to the decommissioning of the Quincy very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name and geographic coordinates of the airport and name of the navigational aid would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before August 10, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–1389 and Airspace Docket No. 23–AGL–19 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/*. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Quincy Regional Airport-Baldwin Field, Quincy IL, to support instrument flight rule (IFR) operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice (DOT/ALL–14FDMS), which can be reviewed at *www.dot.gov/privacy*.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraphs 6002 and 6005 of FAA Order

JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by:

Modifying the Class E surface airspace to within a 4.3-mile (increased from a 4.2-mile) radius of Quincy Regional Airport-Baldwin Field, Quincy, IL; removing the Quincy VORTAC and associated extension from the airspace legal description; updating the name (previously Quincy Municipal Baldwin Field) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and replacing the outdated terms ''Notice to Airmen'' with ''Notice to Air Missions'' and ''Airport/Facility Directory'' with ''Chart Supplement''.

And modifying the Class E airspace extending upward from 700 feet above the surface to within a 6.8-mile (decreased from a 7.1-mile) radius of Quincy Regional Airport-Baldwin Field; amending the extension to the southwest to within 4 miles each side (previously 4.4 miles northwest and 7 miles southeast) of the 220° bearing from the Quincy RGNL-Baldwin FLD: RWY 04—Marker Beacon (previously Quincy ILS localizer southwest course) extending from the 6.8-mile (previously 7-mile) radius of the Quincy Regional Airport-Baldwin Field to 9.8 miles (previously 10.4 miles) southwest of the Quincy RGNL-Baldwin FLD: RWY 04—Marker Beacon (previously Quincy LOM/NDB); and updating name and geographic coordinates of Quincy Regional Airport-Baldwin Field (previously Quincy Municipal Baldwin Field) and the name of Quincy RGNL-Baldwin FLD: RWY 04—Marker Beacon (previously Quincy LOM/NDB) to coincide with the FAA's aeronautical database.

This action is the result of an airspace review due to the decommissioning of the Quincy VOR, which provided navigation information to this airport, as part of the VOR MON Program, and to support IFR operations at this airport.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL IL E2 Quincy, IL [Amended]

Quincy Regional Airport-Baldwin Field, IL
(Lat 39°56′32″ N, long 91°11′33″ W)

Within a 4.3-mile radius of Quincy Regional Airport-Baldwin Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL IL E5 Quincy, IL [Amended]

Quincy Regional Airport-Baldwin Field Airport, IL
(Lat 39°56′32″ N, long 91°11′33″ W)
Quincy RGNL-Baldwin FLD: RWY 04—Marker Beacon
(Lat 39°53′13″ N, long 91°15′13″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Quincy Regional Airport-Baldwin Field; and within 4 miles each side of the 220° bearing from the Quincy RGNL-Baldwin FLD: RWY 04—Marker Beacon extending from the 6.8-mile radius of the Quincy Regional Airport-Baldwin Filed to 9.8 miles southwest of the Quincy RGNL-Baldwin FLD: RWY 04—Marker Beacon.

* * * * *

Issued in Fort Worth, Texas, on June 20, 2023.

Steven T. Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–13356 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–97762; File No. S7–32–10]

RIN 3235–AN27

Reopening of Comment Period for Position Reporting of Large Security-Based Swap Positions

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is reopening the comment period for its proposal, *Position Reporting of Large Security-Based Swap Positions,* Release No. 34–93784, (Dec. 15, 2021) (''Proposing Release''). In the Proposing Release, the Commission proposed for comment a new rule, which would require any person with a security-based swap position that exceeds a certain threshold to promptly file with the Commission a schedule disclosing certain information related to its security-based swap position

(''Proposed Rule''). The Commission is reopening the comment period to allow interested persons an opportunity to comment on the additional analysis and data contained in a staff memorandum that was added to the public comment file on June 20, 2023, including providing comment on questions identified below.

DATES: The comment period for the Proposing Release published February 4, 2022, at 87 FR 6652, is reopened. Comments should be received on or before August 21, 2023.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*); or

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–32–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all submitted comments on the Commission's website (*https://www.sec.gov/rules/proposed.shtml*). Comments also are available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's Public Reference Room. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the SEC's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Rajal B. Patel, Senior Special Counsel, Richard Mo, Senior Special Counsel, Pamela Carmody, Special Counsel, or Carol M. McGee, Associate Director, Office of Derivatives Policy, Division of Trading and Markets, at (202) 551–5870, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: This release relates to the Commission's Proposed Rule under the Exchange Act of 1934 (''Exchange Act''), new rule 17 CFR 240.10B–1 (''Rule 10B–1''), which would require any person with a security-based swap position that exceeds a certain threshold to promptly file with the Commission a schedule disclosing among other things: (1) the applicable security-based swap position; (2) positions in any security or loan underlying the security-based swap position; and (3) any other instrument relating to the underlying security or loan, or group or index of securities or loans. The Proposed Rule includes different reporting thresholds for security-based swaps tied to debt securities and security-based swaps tied to equity securities. Under the proposal, the Commission would make all filings received pursuant to the Proposed Rule available to the public, with the goal of increasing transparency and oversight in the security-based swap market.

I. Background

As described more fully in the Proposing Release, the Commission proposed Rule 10B–1, which would be a large trader position reporting rule for security-based swaps.[1] The Proposed Rule would require public reporting of, among other things: (1) certain large positions in security-based swaps; (2) positions in any security or loan underlying the security-based swap position; and (3) positions in any other instrument relating to the underlying security or loan or group or index of securities or loans. The Proposed Rule would include a specific quantitative threshold for when public reporting is required. Specifically, the Proposed Rule would, among other things:

1. Require any person (and any entity controlling, controlled by or under common control with such person), or group of persons, who through any contract, arrangement, understanding or relationship, after acquiring or selling directly or indirectly, any security-based swap, is directly or indirectly the owner or seller of a Security-Based Swap Position[2] that exceeds the Reporting Threshold Amount, to promptly file with the Commission a statement containing the information required by Schedule 10B on the Commission's EDGAR system. These reports would be made publicly available immediately upon filing;[3]

2. Require that any Schedule 10B be filed promptly, but in no event later than the end of the first business day following the day of execution of the security-based swap transaction that results in the Security-Based Swap Position first exceeding the Reporting Threshold Amount;[4]

3. Provide that a group's filing obligation may be satisfied either by a single joint filing or by each of the group members making an individual filing;[5]

4. Contain a provision intended to prevent evasion of the reporting requirement;[6]

5. Require a person who has previously filed a Schedule 10B with the Commission to file an amendment if any material change occurs in the facts set forth in a previously filed Schedule 10B including, but not limited to, any material increase in the Security-Based Swap Positions or if a Security-Based Swap Position falls back below the applicable Reporting Threshold Amount;[7]

6. Contain key definitions for determining the scope of the position to be disclosed, including for the terms ''Reporting Threshold Amount'' and ''Security-Based Swap Position'';[8]

7. Specify the information required to be included in a Schedule 10B;[9]

8. Specify the territorial scope of the reporting requirements;[10] and

9. Require filers to submit Schedule 10B using a structured, machine-readable data language.[11]

II. Reopening of Comment Period

Since the publication of the Proposing Release, the staff of the Division of Economic and Risk Analysis has prepared a memorandum that provides

[1] *See Prohibition Against Fraud, Manipulation, or Deception in Connection With Security-Based Swaps; Prohibition Against Undue Influence Over Chief Compliance Officers; Position Reporting of Large Security-Based Swap Positions,* Release No. 34–93784 (Dec. 15, 2021) [87 FR 6652 (Feb. 4, 2022)]. On June 7, 2023, the Commission adopted rules regarding a prohibition against fraud, manipulation, or deception in connection with security-based swaps, and a prohibition against undue influence over chief compliance officers, which the Commission proposed along with Rule 10B–1 in the Proposing Release.

[2] Capitalized terms not defined in this release have the meaning set forth in the Proposing Release.

[3] *See* proposed Rule 10B–1(a)(1).

[4] *See* proposed Rule 10B–1(a)(2).

[5] *See* proposed Rule 10B–1(a)(3).

[6] *See* proposed Rule 10B–1(a)(4).

[7] *See* proposed Rule 10B–1(c).

[8] *See* proposed Rule 10B–1(b).

[9] *See* proposed Rule 10B–101.

[10] *See* proposed Rule 10B–1(d).

[11] *See* Proposing Release, 87 FR at 6675.

supplemental data and analysis related to anticipated economic effects of the Proposed Rule.[12]

We believe that the information presented in the memorandum has the potential to be informative for purposes of further evaluating the Proposed Rule. We are, therefore, reopening the comment period to permit interested parties to comment on the staff memorandum, which has been included in the comment file. Given the information presented in the memorandum, we seek comment regarding whether the Reporting Threshold Amounts in the Proposed Rule should be higher or lower. Specifically, in addition to the requests for comment included in the Proposing Release, the Commission seeks comments on the following:

Request for Comment

1. In general, the Commission requests comment on the proposed Reporting Threshold Amount for each asset class (*e.g.,* equity security-based swaps, CDS, non-CDS debt security-based swaps, etc.).

2. With respect to each asset class, should the Reporting Threshold Amount in any final rule be higher or lower than the proposed Reporting Threshold Amount if:

a. Consistent with the Proposed Rule, such final rule requires, at an interim threshold, the inclusion of the value of related securities owned by the holder of the security-based swap position in the calculation of the Reporting Threshold Amount?

b. Such final rule does not require the inclusion of related securities owned by the holder of the security-based swap position in those calculations?

c. Such final rule permits offsetting of security-based swap positions with identical terms (*e.g.,* offsetting long positions with short positions, but only if the security-based swap positions reference the same product identifier)?

d. Consistent with the Proposed Rule, such final rule requires aggregation of security-based swap positions by any person (and any entity controlling, controlled by or under common control with such person) or group of persons, who through any contract, arrangement, understanding or relationship, after acquiring or selling directly or indirectly, any security-based swap, is directly or indirectly the owner or seller of a security-based swap position that exceeds the Reporting Threshold Amount?

e. Such final rule does not require aggregation of security-based swap positions across entities that are both separately legally established and capitalized (unless a guarantee exists)?

f. Such final rule does not require aggregation of security-based swap positions across entities that are both separately legally established and capitalized (unless a guarantee exists), unless acting as a group with a common purpose?

g. Such final rule requires aggregation of security-based swap positions established by transactions effected for such person's own account and of security-based swap positions established by transactions effected for the account of others, when that person shares in the economic risk in the other accounts or otherwise controls the account?

h. Such final rule does not require the Reporting Threshold Amount to include security-based swap positions entered into by a person with an entity or person controlling, controlled by, or under common control with that person?

i. Such final rule requires or does not require aggregation or inclusion of transactions pursuant to any combination of the options listed in items (a) through (h) above?

We encourage any interested person to submit comments, including comments on the data or methodology used in the analysis contained in the memorandum and on how this analysis should inform our consideration of the economic effects of the Proposed Rule. If any commenters who have already submitted a comment letter wish to provide supplemental or updated comments, we encourage them to do so. Comments are of particular assistance if accompanied by supporting data and analysis of the issues addressed in those comments.

By the Commission.

Dated: June 20, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–13447 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

[12] Memorandum of the Staff of the Division of Economic and Risk Analysis, *Supplemental data and analysis regarding the proposed reporting thresholds in the equity security-based swap market* (June 20, 2023), available at *https://www.sec.gov/comments/s7-32-10/s73210.htm.*

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–110412–23]

RIN 1545–BQ81

Additional Guidance on Low-Income Communities Bonus Credit Program; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–110412–23) that was published in the **Federal Register** on June 1, 2023. The notice of proposed rulemaking contains proposed regulations concerning the low-income communities bonus energy investment credit program established pursuant to the Inflation Reduction Act of 2022.

DATES: Written or electronic comments are still being accepted and must be received by June 30, 2023.

ADDRESSES: Stakeholders are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–110412–23) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted, whether electronically or on paper, to the IRS's public docket. Send paper submissions to: CC:PA:LPD:PR (REG–110412–23), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Office of Associate Chief Counsel (Passthroughs & Special Industries), at (202) 317–6853 (not a toll-free number); concerning submissions of written comments, Vivian Hayes, at (202) 317–6901 (not a toll-free number), preferably at *publichearings@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The proposed regulation that is the subject of this correction is under section 48(e) of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–110412–23) contains an error that needs to be corrected.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–110412–23) that is the subject of FR Doc. 2023–11718, published on June 1, 2023, at (88 FR 35791), is corrected to read as follows:

1. On page 35791, in the third column, the third line from the top of the column is corrected to read ''26 CFR part 1''.

2. On page 35793, in the third column, the fifth line from the bottom of the column is corrected to read, ''rating of the energy storage technology (in kW)''.

Oluwafunmilayo A. Taylor,

Branch Chief, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2023–13510 Filed 6–23–23; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0699; FRL–10754–01–R5]

Air Plan Approval; Indiana; ArcelorMittal and NIPSCO Sulfur Dioxide Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the sulfur dioxide (SO_2) portion of the Indiana State Implementation Plan (SIP). The state of Indiana is requesting revisions to emission limits at the Northern Indiana Public Service Company Bailly Station (NIPSCO) facility reflecting permanently shut down units. Indiana is also requesting SIP revisions for two facilities formerly owned by ArcelorMittal USA LLC and currently owned by Cleveland-Cliffs LLC (Indiana Harbor East and Indiana Harbor West). The Indiana Harbor East facility is required to demonstrate continuous compliance with final SO_2 emission limits as a daily (24-hour) average. These revisions will result in decreases in allowable SO_2 emissions at all three facilities, maintaining SO_2 attainment/unclassifiable designations for the 2010 1-hour SO_2 national ambient air quality standards (NAAQS).

DATES: Comments must be received on or before July 26, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0699 at *https://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Cecilia Magos, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7336, *magos.cecilia@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

I. Background

On March 31, 2021, the Indiana Department of Environmental Management (IDEM) submitted a site-specific SO_2 SIP revision request to EPA for the NIPSCO facility in Porter County, and SIP revision requests for Indiana Harbor West and Indiana Harbor East both located in Lake County. The revisions for NIPSCO and ArcelorMittal LLC (Indiana Harbor West) are administrative clean-up revisions removing limits that apply to permanently shut down units. The revisions for ArcelorMittal LLC (Indiana Harbor East) remove limits that apply to permanently shut down units and include a demonstration of continuous compliance with SO_2 emission limits as a daily (24-hour) average SO_2 pounds per hour (lbs/hr) emission limit.

II. Content in IDEM's SIP Revision Request

The revised rule 326 Indiana Administrative Code (IAC) 7–4–14(2) reduces the SO_2 emissions at the NIPSCO facility by removing boilers 7 and 8 and their limits of 6.0 pounds per million British thermal units (lbs/MMBtu) each, described in Table 1 below. These boilers have been permanently shut down.

Additionally, revisions to 326 IAC 7–4.1–10 update the name of the ISG Indiana Harbor Inc. facility to ArcelorMittal USA LLC (Indiana Harbor West). The revised rule changes language of Utility Boilers 5, 6, 7 and 8 emission unit requirements from ''shall'' to ''must'' concerning total actual heat input from fuel oil usage at all boilers combined, the fuel boilers are fired on, and sulfur percentage and lb/MMBtu of fuel oil burned. For shut down units, the revision includes removal of the hot strip mill slab heat reheat furnaces 1, 2, and 3 with emission limits of 531.1 lbs/hr each, as well as removal of the sinter plant windbox with emission limits of 240 lbs/hour. Removal of emission units and limits results in a total of 19.67 lbs/hour sulfur emission limit reductions at the Indiana Harbor West facility.

Rule revisions to 326 IAC 7–4.1–11 update the name of the Ispat Inland Inc. facility to ArcelorMittal USA LLC (Indiana Harbor East). The revisions include removal of a series of shut down emission units and listings including: No. 1 blast furnace stove; No. 2 blast furnace stove; No. 5 and No. 6 blast furnace stoves; No. 2AC boilers 207, 208, 209, and 210; No. 2AC boilers 211, 212, and 213; No. 4AC boilers 401, 402, 403, 404, and 405; stack 1 (boilers 401 and 402); stack 2 (boilers 403 and 404); stack 3 (boiler 405); anneal 3, 4. In regard to the boilers that feed into stacks 1, 2, and 3 being shut down, the SIP revision removes the requirements to operate continuous emission monitoring systems on those stacks. The SIP revision also removes the equations to calculate sulfur dioxide emissions in units of pounds per MMBtu of the aforementioned units.

For the Indiana Harbor East facility, the revised rule at 326 IAC 7–4.1–11 combines the No. 7 Blast Furnace Canopy and No. 7 Blast Furnace Baghouse into a combined No. 7 Blast

Furnace West Baghouse and East Baghouse which must demonstrate compliance with an SO_2 emission limit of 432 lbs/hr. The SIP revision also removes the EAF shop ladle metal baghouse and its emission limits.

The revised rule 326 IAC 7–4.1–11 requires continuous compliance with final SO_2 emissions limits as a daily (24-hr) average SO_2 emission limit at the Indiana Harbor East facility. Hourly SO_2 emission rates (in pounds of SO_2 per MMBtu or ton) will be calculated by dividing total daily SO_2 emissions in pounds per day by total heat input per day in MMBtu or ton, respectively, for emission units with pounds of SO_2 per MMBtu limit. Table 1 shows the emission limit changes at all three facilities.

TABLE 1—EMISSION LIMIT CHANGES AND CLOSURES AT NIPSCO FACILITY, INDIANA HARBOR WEST FACILITY, AND INDIANA HARBOR EAST FACILITY

Unit name	Former limit	Revised limit
North Indiana Public Service Company Bailly Station (NIPSCO)		
Boilers 7 and 8	6.00 lbs/MMBtu each	0.0 lb/hr.
ArcelorMittal USA LLC (Indiana Harbor West)		
Hot Strip Mill Slab Heat Reheat Furnaces 1, 2, and 3	535.1 lbs/hr each	0.0 lbs/hr each.
Sinter Plant Windbox	240 lbs/hr	0.0 lbs/hr.
ArcelorMittal USA LLC (Indiana Harbor East)		
No. 1 Blast Furnace Stoves	11.92 lbs/hr total	0.0 lbs/hr.
No. 2 Blast Furnace Stoves	12.4 lbs/hr total	0.0 lbs/hr
No. 5 and 6 Blast Furnace Stoves	41.02 lbs/hr each	0.0 lbs/hr.
No. 2AC Boilers 207, 208, 209, and 210	15.873 lbs/hr total	0.0 lbs/hr.
No. 2AC Boilers 211, 212, and 213	168.0 lbs/hr total	0.0 lbs/hr.
No. 4AC Boilers 401, 402, 403, 404, and 405	890.23 lbs/hr total	0.0 lbs/hr.
Anneal 3, 4	0.0 lbs/hr	0.0 lbs/hr.
EAF Shop Ladle Metal Baghouse	13.90 lbs/hr	0.0 lbs/hr.
No.7 Blast Furnace West Baghouse and East Baghouse	50.400 lbs/hr	432 lbs/hr total.
No. 7 BF Casthouse Baghouse	50.400 lbs/hr	0.0 lbs/hr.

III. Clean Air Act Section 110(l)

Section 110(l) of the Clean Air Act (CAA) provides that state submissions cannot be approved as SIP revisions if they interfere with applicable requirements concerning attainment and maintenance of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA. The relevant NIPSCO facility is located in Porter County which was designated as attainment/unclassifiable during Round 4 designations for the 2010 SO_2 standard (86 FR 16055, March 26, 2021). The ArcelorMittal USA LLC facilities, Indiana Harbor East and Indiana Harbor West, are located in Lake County which was designated attainment/unclassifiable during Round 3 designations for the 2010 SO_2 standard (83 FR 1098, January 9, 2018). EPA finds that Indiana's revision to the rules at 326 IAC 7–4–14(2) (NIPSCO), 326 IAC 7–4.1–10 (Indiana Harbor West), and 326 IAC 7–4.1–11 (Indiana Harbor East), reflecting SO_2 emission limits revisions and emission unit removals, will not interfere with attainment and maintenance of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA, nor pose a risk to the permanence and compliance with SO_2 attainment/unclassifiable designations in Porter and Lake Counties.

EPA is proposing that the overall revisions in allowable SO_2 emissions in IDEM's March 31, 2021, revised rule 326 IAC 7–4–14(2) further reduces SO_2 emissions in Porter County by removal of Boilers 7 and 8 at the NIPSCO facility, resulting in a total of 12 lbs/MMBtu emission limit reduction.

Revisions to the 326 IAC 7–4.1–10 rule applicable to the Indiana Harbor West facility in Lake County also reduces SO_2 emissions by a total 19.67 lbs/hr by removal of hot strip mill slab heat reheat furnace 1,2, and 3 and the removal of the sinter plant windbox at the facility, further strengthening the SIP.

EPA's analysis found that revisions to 326 IAC 7–4.1–11 applicable to the Indiana Harbor East facility in Lake County will reduce SO_2 emissions by 770.13 lbs/hr of SO_2 (see *Indiana-ArcelorMittal USA LLC.xlsx, sheet IHE* in the docket for this action). The No. 7 blast furnace previous emission limit was set to 50.400 lbs/hour and was revised by the State to 432.00 lbs/hr as shown in Table 1. As a result, the revisions to the now combined No. 7 blast furnace west baghouse and east baghouse increased emissions by 381.60 lbs/hr total in relation to the original permitted amount. The summation of the facility's existing units daily (24-hour) averaged SO_2 emission limits is 1,236.00 SO_2 lbs/hr. To calculate a comparatively stringent 1-hour emission rate for the longer-term averaged units at the facility, EPA is utilizing a 99th percentile 24-hour average SO_2 emission adjustment of 0.93 listed in EPA's April 2014 *Guidance for 1-hour SO_2 Nonattainment Area SIP Submissions*[1] for uncontrolled units averaged over a 24-hour basis. The existing limit rate of 1,236.00 SO_2 lbs/hr over a 24-hour average results in a comparably stringent 1-hour emission rate of 1,329.03 SO_2 lbs/hr after application of the 0.93 adjustment factor, an increase of 93.03 lbs/hr. The sum of the increase of emission limits at the facility equals 474.63 SO_2 lbs/hr and the sum of the decrease of emission limits at the facility equals 1,244.76 SO_2 lbs/hr. Therefore, the revisions result in an overall 770.13 SO_2 lbs/hr net reduction in SO_2 emission limits at the facility. Based on the above, EPA proposes to find that IDEM's March 31, 2021, submittal is consistent with CAA section 110(l).

[1] *https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-dioxide-so2-nonattainment-area-state-implementation-plans-sip* (pages 22–39).

IV. Environmental Justice Considerations

EPA identified environmental burdens and susceptible populations in communities nearby, by performing a screening-level analysis using the EPA's environmental justice (EJ) screening and mapping tool (''EJSCREEN'').[2] The EJSCREEN analysis reports are included in the docket for this action for the NIPSCO and ArcelorMittal USA LLC (Indiana Harbor West and Indiana Harbor East) facilities located in Porter County and Lake County, respectively.

EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within a 1-mile and 3-mile radius of the NIPSCO facility in Porter County. The 1-mile buffer showed no census data within the area, indicating no individuals live within one mile of the facility. Thus, to further evaluate environmental and demographic indicators of the facility with available census data, an additional analysis was conducted at a 3-mile buffer. For the 3-mile buffer, EPA reviewed the EJSCREEN tool for the demographic indicators at the NIPSCO facility, specifically for the EJSCREEN ''Demographic Index'', which is the average of an area's percentage of people of color and percentage of low-income populations. EPA then compared the data to the national Demographic Index average. The results of this analysis are being provided for informational and transparency purposes. The results of the demographic analysis indicate that the Demographic Index at the NIPSCO location is lower than the national average. Additionally, the results indicate that these areas score below the 80th percentile (in comparison to the nation as a whole) in the twelve EJ Indexes established by EPA, which include a combination of environmental and demographic information. EPA has provided that if any of the EJ indexes for the areas under consideration are at or above the 80th percentile nationally, then further review may be appropriate. Based on the information presented, at a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain and/or maintain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

Indiana Harbor East and Indiana Harbor West are owned and operated by the same parent company, and the facilities share the same ArcelorMittal USA LLC administrative address. According to the census data available through EJSCREEN, comparing both facilities, the administrative address is closest in proximity to a higher total population center. EPA identified environmental burdens and susceptible populations in communities nearby, by performing a screening-level analysis using the EPA's EJSCREEN tool. EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators of the communities within a 1-mile radius of the ArcelorMittal USA LLC facilities' administrative address in Lake County. For the 1-mile buffer, EPA reviewed the EJSCREEN tool for the demographic indicators at the ArcelorMittal USA LLC facilities, specifically for the ''Demographic Index'', which is the average of an area's percent people of color and percent low-income populations. EPA then compared the data to the national Demographic Index average. The results of this analysis are being provided for informational and transparency purposes. The results of the demographic analysis indicate that, the Demographic Index at the ArcelorMittal USA LLC location is higher than the national average. Additionally, the results indicate that the area scores above the 80th percentile (in comparison to the nation as whole) in all twelve EJ Indexes established by EPA, which include a combination of environmental and demographic information. At a state-level comparison in the 1-mile buffer to the ArcelorMittal USA LLC facilities, all EJ Indexes scored above the 80th percentile with one exception, the EJ Index for Ozone scored at a 76th percentile. This EJ Index considers the ozone summer seasonal average of daily maximum 8-hour concentration in the air.

EPA has provided that if any of the EJ indexes for the areas under consideration are at or above the 80th percentile nationally, then further review may be appropriate. As discussed in the EPA's EJ technical guidance, people of color and low-income populations often experience greater exposure and disease burdens than the general population, which can increase their susceptibility to adverse health effects from environmental stressors. Underserved communities can also experience reduced access to health care, nutritional, and fitness resources, further increasing their susceptibility.

Considering these results, we expect that this action and resulting emissions reductions will be neutral or contribute to reduced environmental and health impacts on all populations in Lake County, Indiana, including people of color and low-income populations. This proposed rule, if finalized, will further improve local air quality by reducing SO_2 emissions in Lake County that was designated attainment/unclassifiable during Round 3 designations for the 2010 SO_2 standard (83 FR 1098, January 9, 2018). Based on the information presented, at a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain and/or maintain the SO_2 air quality standard.

Further, in this action, EPA is proposing to approve the revisions to SO_2 emission limits and removal of emission units at the NIPSCO, ArcelorMittal USA LLC (Indiana Harbor West) and ArcelorMittal USA LLC (Indiana Harbor East) facilities into the Indiana SIP. Thus, EPA believes that finalizing this action will help to reduce potential disproportionate health, environmental, economic, and climate impacts on disadvantaged communities in the area surrounding the ArcelorMittal USA LLC facilities and that this action will not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

V. What action is EPA proposing?

EPA proposes approval of the March 31, 2021, SIP revision request for Indiana's SO_2 rules for NIPSCO (326 IAC 7–4–14(2)), ArcelorMittal USA LLC (Indiana Harbor West) (326 IAC 7–4.1–10), and ArcelorMittal USA LLC (Indiana Harbor East) (326 IAC 7–4.1–11). This will strengthen the Indiana SO_2 SIP by lowering SO_2 emission limits overall and update monitoring compliance requirements to the Indiana Harbor East facility.

VI. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Indiana rules 326 IAC 7–4–14(2), 326 IAC 7–4.1–10, and 326 IAC 7–4.1–11, effective March 31, 2021, discussed in section II. of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

[2] *See* documentation on EPA's Environmental Justice Screening and Mapping Tool at *https://www.epa.gov/ejscreen,* last accessed 1/18/2022.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

IDEM did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA performed an environmental justice analysis, as is described in section IV of this preamble titled, ''Environmental Justice Considerations.'' The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for minority, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 20, 2023.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2023–13524 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0535; FRL–11020–01–R4]

Air Plan Approval; TN; 2010 1-Hour SO_2 NAAQS Transport Infrastructure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Tennessee's July 31, 2019, State Implementation Plan (SIP) submission pertaining to the ''good neighbor'' provision of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires each State's implementation plan to contain adequate provisions prohibiting the interstate transport of air pollution in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other State. In this action, EPA is proposing to determine that Tennessee will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any other State. Therefore, EPA is proposing to approve the July 31, 2019, SIP revision as meeting the requirements of the good neighbor provision for the 2010 1-hour SO_2 NAAQS.

DATES: Written comments must be received on or before July 26, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0535 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can be reached via phone number (404) 562–9009 or via electronic mail at *adams.evan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. Infrastructure SIPs

On June 2, 2010, EPA promulgated a revised primary SO_2 NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations. *See* 75 FR 35520 (June 22, 2010). Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires States to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This particular type of SIP submission is commonly referred to as an ''infrastructure SIP.'' [1] These submissions must meet the various requirements of CAA section 110(a)(2), as applicable.

Section 110(a)(2)(D)(i)(I) of the CAA requires SIPs to include provisions prohibiting any source or other type of emissions activity in one State from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another State. The two clauses of this section are referred to as prong 1 (significant contribution to nonattainment of the NAAQS) and prong 2 (interference with maintenance of the NAAQS).

The Tennessee Department of Environment & Conservation (TDEC) submitted a revision to the Tennessee SIP on July 31, 2019,[2] addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS.[3] Updated transport modeling for the Eastman Chemical facility in Sullivan County, Tennessee, was completed and submitted to EPA on November 30, 2021 to supplement the July 31, 2019 submission.[4] EPA is proposing to approve TDEC's July 31, 2019, SIP submission because the State demonstrated that Tennessee will not contribute significantly to nonattainment, or interfere with maintenance, of the 2010 1-hour SO_2 NAAQS in any other State. All other elements related to the infrastructure requirements of section 110(a)(2) for the 2010 1-hour SO_2 NAAQS for Tennessee have been addressed in separate rulemakings.[5]

B. 2010 1-Hour SO_2 NAAQS Designations Background

In this proposed action, EPA has considered information from the 2010 1-hour SO_2 NAAQS designations process, as discussed in more detail in section III.C of this notice. For this reason, a brief summary of EPA's designations process for the 2010 1-hour SO_2 NAAQS is included here.[6]

After the promulgation of a new or revised NAAQS, EPA is required to designate areas as ''nonattainment,'' ''attainment,'' or ''unclassifiable'' pursuant to section 107(d)(1)–(2) of the CAA. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires EPA to complete the initial designations process within two years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, EPA has the authority to extend the deadline for completing designations by up to one year.

EPA promulgated the 2010 1-hour SO_2 NAAQS on June 2, 2010. *See* 75 FR 35520 (June 22, 2010). The EPA Administrator signed the first round [7] of designations (''Round 1'') [8] for the 2010 1-hour SO_2 NAAQS on July 25, 2013, designating 29 areas in 16 States as nonattainment for the 2010 1-hour SO_2 NAAQS. *See* 78 FR 47191 (August 5, 2013). The EPA Administrator signed **Federal Register** notices for Round 2 designations [9] on June 30, 2016 (81 FR 45039 (July 12, 2016)) and on November 29, 2016 (81 FR 89870 (December 13, 2016)). Round 3 designations [10] were signed on December 21, 2017 (83 FR 1098 (January 9, 2018)) and March 28, 2018 (83 FR 14597 (April 5, 2018)).

[1] In 2012, EPA decided to retain the current secondary NAAQS for SO_2. Thus, the CAA section 110(a)(1) requirement to submit an infrastructure SIP for this secondary standard was not triggered. The secondary SO_2 standard is 500 ppb averaged over three hours, not to be exceeded more than once per year. *See* 77 FR 20218 (April 3, 2012).

[2] TDEC's SIP revision was submitted August 1, 2019, through a transmittal letter dated July 31, 2019.

[3] On March 13, 2014, TDEC submitted a SIP revision addressing all infrastructure elements with respect to the 2010 1-hour SO_2 NAAQS with the exception of prongs 1 and 2 of CAA 110(a)(2)(D)(i)(I).

[4] EPA officially received the supplemental file dated November 30, 2021 on December 7, 2021.

[5] EPA acted on all other infrastructure elements for the 2010 1-hour SO_2 NAAQS in Tennessee's March 13, 2014, SIP revision on November 28, 2016 (81 FR 85410) and September 24, 2018 (83 FR 48237).

[6] While designations may provide useful information for purposes of analyzing transport, particularly for a more source-specific pollutant such as SO_2, EPA notes that designations themselves are not dispositive of whether or not upwind emissions are impacting areas in downwind states. EPA has consistently taken the position that CAA section 110(a)(2)(D)(i)(I) requires elimination of significant contribution and interference with maintenance in other states, and this analysis is not limited to designated nonattainment areas. Nor must designations for nonattainment areas have first occurred before states or the EPA can act under section 110(a)(2)(D)(i)(I). *See, e.g.,* Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross State Air Pollution Rule, 76 FR 48208, 48211 (Aug. 8, 2011); Final Response to Petition from New Jersey Regarding SO_2 Emissions From the Portland Generating Station, 76 FR 69052 (Nov. 7, 2011) (finding facility in violation of the prohibitions of CAA section 110(a)(2)(D)(i)(I) with respect to the 2010 1-hour SO_2 NAAQS prior to issuance of designations for that standard).

[7] The term ''round'' in this instance refers to which ''round of designations.''

[8] EPA and state documents and public comments related to the Round 1 final designations are in the docket at *regulations.gov* with Docket ID No. EPA–HQ–OAR–2012–0233 and at EPA's website for SO_2 designations at *https://www.epa.gov/sulfur-dioxide-designations.*

[9] EPA and state documents and public comments related to the Round 2 final designations are in the docket at *regulations.gov* with Docket ID No. EPA–HQ–OAR–2014–0464 and at EPA's website for SO_2 designations at *https://www.epa.gov/sulfur-dioxide-designations.*

[10] EPA and state documents and public comments related to Round 3 final designations are in the docket at *regulations.gov* with Docket ID No. EPA–HQ–OAR–2017–0003 and at EPA's website for SO_2 designations at *https://www.epa.gov/sulfur-dioxide-designations.*

Round 4 designations [11] were signed on December 21, 2020 (86 FR 16055 (March 26, 2021)) [12] and April 8, 2021 (86 FR 19576 (April 14, 2021)).[13]

In Round 1 and Round 2 of designations, EPA designated one SO_2 nonattainment area and one unclassifiable area in Tennessee. In Round 1, EPA designated a portion of Sullivan County as nonattainment for the 2010 1-hour SO_2 NAAQS based on air quality monitoring data.[14] In Round 2, EPA designated Sumner County as unclassifiable for the 2010 1-hour SO_2 NAAQS.[15] The remaining counties in Tennessee were designated as attainment/unclassifiable in Round 3; therefore, no areas in Tennessee were designated in Round 4.[16] Although the designations process is separate from action on Tennessee's SO_2 transport SIP, EPA proposes the information relied on in the designations process can be helpful in evaluating Tennessee's SO_2 transport obligations.

II. Relevant Factors Used To Evaluate 2010 1-Hour SO_2 Interstate Transport SIPs

Although SO_2 is emitted from a similar universe of point and nonpoint sources as is directly emitted fine particulate matter ($PM_{2.5}$) and the precursors to ozone and $PM_{2.5}$, interstate transport of SO_2 is unlike the transport of $PM_{2.5}$ or ozone because SO_2 emissions usually do not have long-range transport in the atmosphere. The transport of SO_2 relative to the 2010 1-hour SO_2 NAAQS is more analogous to the transport of lead (Pb) relative to the Pb NAAQS in that emissions of SO_2 typically result in 1-hour pollutant impacts of greatest concern near the emissions source. However, ambient 1-hour concentrations of SO_2 do not decrease as quickly with distance from the source as do 3-month average concentrations of Pb, because SO_2 gas is not removed by deposition as rapidly as are Pb particles. Emitted SO_2 has wider-ranging impacts than emitted Pb, but it does not have such wide-ranging impacts that treatment in a manner similar to ozone or $PM_{2.5}$ would be appropriate. Accordingly, the approaches that EPA has adopted for ozone or $PM_{2.5}$ transport are too regionally focused, and the approach for Pb transport is too tightly circumscribed to the source, to be appropriate for assessing SO_2 transport. SO_2 transport is therefore a unique case and requires a different approach.

In this proposed rulemaking, as in prior SO_2 transport analyses, EPA focuses on a 50 kilometer (km)-wide zone because the physical properties of SO_2 result in relatively localized pollutant impacts near an emissions source that drop off with distance. Given the properties of SO_2, EPA selected a spatial scale with dimensions from four to 50 km from point sources—the ''urban scale''—to assess trends in area-wide air quality that might impact downwind States.[17]

In its July 31, 2019, SIP submission, TDEC identified a 50-km distance threshold to reflect the transport properties of SO_2. TDEC used this 50-km threshold for the supporting analyses in the submission, and notes that this 50-km distance is the modeling domain limit of the EPA-recommended American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) modeling system.

Given the properties of SO_2, EPA preliminarily agrees with Tennessee's selection of the urban scale to assess trends in area-wide air quality that might impact downwind states. As discussed further in section III.B, EPA proposes that Tennessee's selection of the urban scale is appropriate for assessing trends in both area-wide air quality and the effectiveness of large-scale pollution control strategies at SO_2 point sources. Tennessee's selection of this transport distance for SO_2 is consistent with 40 CFR part 58, Appendix D, Section 4.4.4(4) ''Urban scale,'' which States that measurements in this scale would be used to estimate SO_2 concentrations over large portions of an urban area with dimensions from four to 50 km. AERMOD is EPA's preferred modeling platform for regulatory purposes for near-field dispersion of emissions for distances up to 50 km. *See* Appendix W of 40 CFR part 51. Thus, EPA preliminarily concurs with Tennessee's application of the 50-km threshold to evaluate emission source impacts into neighboring states and to assess air quality monitors within 50 km of the State's border, which is discussed further in section III.C.

As discussed in sections III.C and III.D, EPA first reviewed Tennessee's analysis to assess how the State evaluated the transport of SO_2 to other States, the types of information used in the analysis, and the conclusions drawn by the State. EPA then conducted a weight of evidence analysis based on a review of the State's submission and other available information, including SO_2 air quality for monitors and available emissions and/or source modeling for sources in Tennessee and in neighboring States within 50 km of the Tennessee border.[18]

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[11] EPA and state documents and public comments related to Round 4 final designations are in the docket at *regulations.gov* with Docket ID No. EPA–HQ–OAR–2020–0037 and at EPA's website for SO_2 designations at *https://www.epa.gov/sulfur-dioxide-designations.*

[12] The Round 4 2010 1-hour SO_2 NAAQS designations action was signed by former EPA Administrator Andrew Wheeler on December 21, 2020, pursuant to a court-ordered deadline of December 31, 2020. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, former Acting Administrator Jane Nishida re-signed the same action on March 10, 2021, for publication in the **Federal Register**.

[13] On August 21, 2015 (80 FR 51052), EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR). The DRR requires state air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted in 2014 2,000 tons per year (tpy) or more of SO_2, or that have otherwise been listed under the DRR by EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose federally enforceable emissions limitations on those sources restricting their annual SO_2 emissions to less than 2,000 tpy, or provide documentation that the sources have been shut down. EPA used the information generated by implementation of the DRR to help inform Round 4 designations for the 2010 1-hour SO_2 NAAQS.

[14] See August 5, 2013, final rulemaking (78 FR 47191, 47204) and EPA's *Technical Support Document (TSD): Tennessee—Area Designations for the 2010 SO_2 Primary National Ambient Air Quality Standard,* at *https://www.epa.gov/sites/production/files/2016-03/documents/tn-tsd.pdf.*

[15] EPA designated Sumner County, Tennessee, as unclassifiable in Round 2 designations for the 2010 1-hour SO_2 NAAQS in a notice published July 12, 2016 (81 FR 45039). *See also* EPA's *Final Technical Support Document: Tennessee—Area Designations for the 2010 SO_2 Primary National Ambient Air Quality Standard,* at *https://www.epa.gov/sites/production/files/2016-07/documents/r4_tn_final_designation_tsd_06302016.pdf.* On September 29, 2020, TDEC submitted a request to redesignate Sumner County to attainment and to terminate DRR reporting requirements for TVA-Gallatin. On May 25, 2021, the final rule to redesignate Sumner County as attainment/unclassifiable was published (86 FR 27981). EPA did not receive any comments on the proposed rulemaking. EPA is not requesting review and comment on the redesignation for Sumner County, Tennessee, in this proposed action.

[16] *See Technical Support Document: Chapter 38 Final Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee*, at *https://www.epa.gov/sites/production/files/2017-12/documents/38-tn-so2-rd3-final.pdf. See also Technical Support Document: Chapter 38 Intended Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee,* at *https://www.epa.gov/sites/production/files/2017-08/documents/39_tn_so2_rd3-final.pdf.*

[17] For the definition of spatial scales for SO_2, see 40 CFR part 58, Appendix D, section 4.4 (''Sulfur Dioxide (SO_2) Design Criteria''). For further discussion on how EPA applies these definitions with respect to interstate transport of SO_2, see EPA's proposed rulemaking on Connecticut's SO_2 transport SIP. *See* 82 FR 21351, 21352, 21354 (May 8, 2017).

[18] This proposed approval action is based on the information contained in the administrative record for this action and does not prejudge any other future EPA action or determinations regarding Tennessee's or any neighboring State's air quality

III. Tennessee's SIP Submission and EPA's Analysis

A. State Submission

Through a letter dated July 31, 2019, TDEC submitted a revision to the Tennessee SIP addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS. TDEC supplemented this submittal with updated transport modeling for the Eastman Chemical facility on November 30, 2021. Tennessee conducted a weight of evidence analysis to examine whether SO_2 emissions from the State adversely affect attainment or maintenance of the 2010 1-hour SO_2 NAAQS in downwind States.

TDEC concluded that the State is meeting its prong 1 and prong 2 obligations for the 2010 1-hour SO_2 NAAQS. TDEC based its conclusions for prongs 1 and 2 on: SO_2 design values (DVs) [19] for 2015–2017 and 2016–2018 along with the 99th percentile 1-hour SO_2 concentrations for the years 2015 through 2018 at the air quality monitors in Tennessee and the surrounding States of Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, South Carolina, and Virginia; declining SO_2 emissions trends in Tennessee from 2005 to 2014 (all source categories); [20] the percent change in SO_2 emissions by source category from 2005 to 2014; SO_2 sources assessed in EPA's 2010 1-hour SO_2 NAAQS designations process which are located within 50 km of the State's border; and State and Federal regulations that establish requirements for sources of SO_2 emissions. Based on this analysis, the State concluded that emissions within Tennessee will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any other State. EPA's evaluation of Tennessee's submission is detailed in sections III.B, C, and D.

B. EPA's Evaluation Methodology

EPA acknowledges the State's analysis in the July 31, 2019, submission as well as the supplemental modeling submitted on November 30, 2021. EPA has evaluated this information, and further supplements the State's analysis of sources here to ensure there are no further SO_2 emissions controls needed for meeting CAA interstate transport requirements. EPA proposes that a reasonable starting point for determining which sources and emissions activities in Tennessee are likely to impact downwind air quality in other States with respect to the 2010 1-hour SO_2 NAAQS is by using information in EPA's National Emissions Inventory (NEI).[21] The NEI is a comprehensive and detailed estimate of air emissions for criteria pollutants, criteria pollutant precursors, and hazardous air pollutants from air emissions sources, that is updated every three years using information provided by the states and other information available to EPA. EPA evaluated data from the 2017 NEI released in April of 2020, the most recently available, complete, and quality assured dataset of the NEI.[22]

As shown in Table 1, the majority of SO_2 emissions in Tennessee originate from point sources.[23] In 2017, the total SO_2 emissions from point sources in Tennessee comprised approximately 93 percent of the total SO_2 emissions in the State. The remaining emissions from non-point sources in the other listed source categories are more dispersed throughout the State and are therefore less likely to contribute to high ambient concentrations when compared to a point source on a ton-for-ton basis. Based on EPA's analysis of the 2017 NEI, EPA proposes that it is appropriate to focus the analysis on SO_2 emissions from Tennessee's larger point sources (*i.e.,* emitting over 100 tons per year (tpy) of SO_2 in 2019,[24] the emissions data available in EPA's Emissions Inventory System (EIS)),[25] which are located within the ''urban scale,'' *i.e.,* within 50 km of one or more State borders.

TABLE 1—SUMMARY OF 2017 NEI SO_2 DATA FOR TENNESSEE BY SECTOR TYPE

Category	Emissions (tpy)	Percent of total SO_2 emissions
Fuel Combustion: Electric Generating Units (EGUs) (All Fuel Types)	24,328.80	52.05
Fuel Combustion: Industrial Boilers/Internal Combustion Engines (All Fuel Types)	15,517.78	33.20
Fuel Combustion: Commercial/Institutional (All Fuel Types)	93.21	0.20
Fuel Combustion: Residential (All Fuel Types)	131.84	0.28
Industrial Processes (All Categories)	3,110.95	6.66
Mobile Sources (All Categories)	1143.20	1.55
Fires (All Types)	1,681.00	3.60
Waste Disposal	726.70	1.55
Solvent Processes	0.97	0
Bulk Gasoline Terminal	0.04	0

status. Any such future actions, such as area designations under any NAAQS, will be based on their own administrative records and EPA's analyses of information that become available at those times. Future available information may include, and is not limited to, monitoring data and modeling analyses conducted pursuant to the DRR and information submitted to EPA by States, air agencies, and third-party stakeholders such as citizen groups and industry representatives.

[19] A ''Design Value'' or DV is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. The DV for the primary 2010 1-hour SO_2 NAAQS is the 3-year average of annual 99th percentile daily maximum 1-hour average concentrations for a monitoring site. For example, the 2019 DV is calculated based on the three-year average from 2017–2019. The interpretation of the primary 2010 1-hour SO_2 NAAQS, including the data handling conventions and calculations necessary for determining compliance with the NAAQS, can be found in Appendix T to 40 CFR part 50.

[20] Table 2 of Tennessee's SIP revision also provides 2017 data for the point source category only, which showed a 49,713.42 ton decrease from 90,283.03 tons in 2014 to 40,569.61 tons in 2017.

[21] EPA's NEI is available at *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory.*

[22] EPA evaluated the January 2021 version of the 2017 NEI. For more information, see the website: *https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data.*

[23] Tennessee's point sources, for the purposes of this action, are comprised of all of the following emissions source categories in Table 1: ''Fuel Combustion'' categories with the exception of residential fuel combustion, the ''Industrial Processes (All Categories),'' and ''Waste Disposal.'' Residential fuel combustion is considered a nonpoint source and, thus, residential fuel combustion data is not included in the point source fuel combustion data and related calculations.

[24] With respect to EPA's evaluation of sources emitting greater than 100 tpy of SO_2 in 2019, in the absence of special factors, for example the presence of nearby larger sources or unusual factors (such as a very high concentration of smaller sources), sources emitting less than or equal to 100 tpy SO_2 can be appropriately presumed to not be contributing significantly to nonattainment or interfering with maintenance of the 2010 1-hour SO_2 NAAQS.

[25] EPA's EIS is available at: *https://www.epa.gov/air-emissions-inventories/emissions-inventory-system-eis-gateway.*

TABLE 1—SUMMARY OF 2017 NEI SO_2 DATA FOR TENNESSEE BY SECTOR TYPE—Continued

Category	Emissions (tpy)	Percent of total SO_2 emissions
Miscellaneous (Non-Industrial)	3.63	0.01
SO_2 Emissions Total	46,738.12	100

As explained in Section II, because the physical properties of SO_2 result in relatively localized pollutant impacts near an emissions source that drop off with distance, in SO_2 transport analyses, EPA focuses on a 50 km-wide zone. Thus, EPA focused its evaluation on Tennessee's point sources of SO_2 emissions located within approximately 50 km of another State and their potential impact on neighboring States.

EPA's implementation strategy for the 2010 1-hour SO_2 NAAQS included the flexibility in certain circumstances to characterize air quality for stationary sources subject to EPA's Data Requirements Rule ''DRR'' via either data collected at ambient air quality monitors sited to capture the points of maximum concentration, or air dispersion modeling (hereinafter referred to as ''DRR monitors'' or ''DRR modeling,'' respectively). EPA's assessment of SO_2 emissions from Tennessee's point sources located within approximately 50 km of another State and their potential impacts on neighboring States (see sections III.C.1. and III.C.2. of this rulemaking) and SO_2 air quality data at monitors within 50 km of the Tennessee border (see section III.C.3. of this rulemaking) is informed by all available data at the time of this proposed rulemaking.[26]

As described in this section, EPA proposes that an assessment of Tennessee's satisfaction of the prong 1 and 2 requirements under section 110(a)(2)(D)(i)(I) of the CAA for the 2010 1-hour SO_2 NAAQS may be reasonably based upon evaluating the downwind impacts via modeling and an assessment of SO_2 emissions from Tennessee's point sources emitting more than 100 tpy of SO_2 that are located within approximately 50 km of another State, other States' point sources emitting more than 100 tpy of SO_2 that are located within approximately 50 km of Tennessee, and upon any Federal regulations and SIP-approved regulations affecting SO_2 emissions of Tennessee's SO_2 sources.

C. EPA's Prong 1 Evaluation: Significant Contribution to Nonattainment

Prong 1 of the good neighbor provision requires States' plans to prohibit emissions that will contribute significantly to nonattainment of a NAAQS in another State. TDEC confirms in its submission that, with its existing, SIP-approved SO_2 emissions controls in place in conjunction with Federal pollution control requirements, Tennessee will not contribute significantly to nonattainment in any other State with respect to the 2010 1-hour SO_2 standard. To evaluate Tennessee's satisfaction of prong 1, EPA assessed the State's implementation plan submission with respect to the following factors: (1) potential ambient impacts of SO_2 emissions from certain facilities in Tennessee on neighboring States based on available SO_2 air dispersion modeling results; (2) SO_2 emissions from Tennessee sources; (3) SO_2 ambient air quality for Tennessee and neighboring States; (4) SIP-approved Tennessee regulations that address SO_2 emissions; and (5) Federal regulations that reduce SO_2 emissions at Tennessee sources. EPA has reviewed Tennessee's submission, and where new or more current information has become available, EPA is including this information as part of the Agency's evaluation of this submission, and the discussion with respect to the four factors proceeds in the next sections.

EPA proposes that, based on the information available at the time of this rulemaking, these factors, taken together, support Tennessee's proposed determination that the State will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in another State.

1. SO_2 Designations Air Dispersion Modeling

(a) State Submission

In its July 31, 2019, SIP submission, TDEC summarized existing modeling for five sources in Tennessee addressed in different rounds of designations for the 2010 1-hour SO_2 NAAQS: Eastman Chemical Company (Eastman Chemical) facility (Round 1); [27] and Tennessee Valley Authority (TVA) coal-fired power plants Gallatin (TVA-Gallatin) (Round 2), Allen Fossil Plant (TVA-Allen), TVA-Cumberland, and TVA-Johnsonville (Round 3).[28] Of these five sources described in the July 31, 2019, SIP submission, four are located within 50 km of another State: Eastman Chemical, TVA-Gallatin, TVA-Allen, and TVA-Cumberland.[29] In addition, TDEC characterized SO_2 concentrations for Eastman Chemical, TVA-Gallatin, and TVA-Cumberland by extending the modeling domains for these sources into neighboring States and noting the modeled maximum 1-hour SO_2 concentrations in the neighboring States.[30] With respect to TVA-Gallatin, on September 29, 2020, TDEC submitted a request to redesignate Sumner County, Tennessee, from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS (''Sumner County redesignation request'') which included a modeling analysis of TVA-Gallatin's SO_2 emissions. EPA finalized approval of TDEC's Sumner County redesignation

[26] EPA notes that the evaluation of other States' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS can be informed by similar factors found in this proposed rulemaking but may not be identical to the approach taken in this or any future rulemaking for Tennessee, depending on available information and state-specific circumstances.

[27] In Round 1 of the 2010 1-hour SO_2 NAAQS designations, EPA designated a portion of Sullivan County ''nonattainment'' for the 2010 1-hour SO_2 NAAQS based on air quality monitoring data. This nonattainment portion of Sullivan County encompasses a 3-km radius centered at Eastman Chemical's B–253 powerhouse, located at 36.5186 N. 82.5350 W.

[28] See modeling results for the following Tennessee sources in the July 31, 2019, SIP submission: Table 8 on p.17 for Eastman Chemical and Table 11 on p.22 for TVA-Allen, TVA-Cumberland, TVA-Gallatin, and TVA-Johnsonville.

[29] TVA-Johnsonville is located approximately 52 km from the Kentucky border, and thus, TDEC did not further analyze this source.

[30] The receptor grid started at the Tennessee border and ended at a distance of 50 km from the source: for Eastman Chemical, the grid started at 8 km (the distance to the Tennessee-Virginia border) and went 42 km into Virginia (50 km from Eastman Chemical); for TVA-Gallatin, the grid started at 37 km (the distance from the source to Tennessee-Kentucky border) and extended 13 km into Kentucky (50 km from TVA-Gallatin); and for TVA-Cumberland, the grid started at 27 km (the distance from the source to the Tennessee-Kentucky border) and extended 23 km into Kentucky (50 km from TVA-Cumberland). TDEC relied on the existing 10-km distance used in the TVA-Allen modeling because the modeling domain already extended into Arkansas (10 − 3.5 = 6.5 km) and Mississippi (10 − 9 = 1 km) (see page 30 of Tennessee's SIP revision). The modeling results showed no maximum 1-hour SO_2 concentrations above the level of the 2010 1-hour SO_2 NAAQS within the modeled domains.

request on May 25, 2021. See 86 FR 27981. A summary of the existing Round 3 modeling for TVA-Allen; TDEC's updated modeling for TVA-Cumberland included in the July 31, 2019, SIP submission; TDEC's modeling to support the Sumner County redesignation request; and TDEC's updated transport modeling for the Eastman Chemical facility dated November 30, 2021, along with supplemental data that has been reviewed as part of the Agency's analysis, is provided in Table 2 of this section.[31]

TDEC also evaluated existing modeling available for DRR sources in other States which are located within 50 km of the Tennessee border: [32] Ascend Performance Materials-Decatur Plant (Ascend) in Alabama (39 km); Plum Point Energy Station in Arkansas (Plum Point) (2.5 km); and Sikeston Power Station (Sikeston) in Missouri (44 km). TDEC states that the three modeled DRR sources (Ascend,[33] Plum Point, and Sikeston) demonstrated attainment of the 2010 1-hour SO_2 NAAQS, with maximum modeled 1-hour SO_2 concentrations of 72.0, 14.9, and 37.2 ppb, respectively.[34]

[31] EPA is opting not to rely on the updated modeling TDEC included in the July 31, 2019, SIP submission for Eastman Chemical or for TVA-Gallatin for this action because more recent, revised modeling is available. For Eastman Chemical, EPA is relying on revised modeling submitted on November 30, 2021, and for TVA-Gallatin, EPA is relying upon modeling submitted by TDEC to EPA in support of the September 29, 2020, redesignation request for Sumner County, Tennessee, from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO_2 NAAQS, which is summarized in Table 2 of section III.C.1.b.

[32] See Table 26 of Section 4.4 on page 35 of TDEC's July 31, 2019, SIP submission.

[33] As explained in section III.C.1.b, EPA previously determined that the Agency does not have sufficient information to demonstrate whether the area around Ascend meets or does not meet the 2010 1-hour SO_2 NAAQS or contributes to an area that does not meet the standard, and thus designated the area around Ascend as unclassifiable. Although EPA does not have any indications that there are violations of the 2010 1-hour SO_2 NAAQS in the area around Ascend, the Agency assessed Ascend in section III.C.2.b of this proposed action with respect to interstate transport for the 2010 1-hour SO_2 NAAQS. According to June 6, 2019, and December 2, 2019, emails from ADEM to EPA, Ascend ceased operating Boiler #5, Boiler #6 is set to cease operations in 2020, and Cokers #1 and #2 were set to cease operations in 2021. However, EPA notes, as of November 30, 2021, that Boiler #5 and Coker #2 were removed from service in 2019 and 2021 respectively and Coker #1 and Boiler #6 are still operating under the facility's current Title V permit. ADEM's June 6, 2019, and December 2, 2019, emails are included in the docket for a separate rulemaking action published December 31, 2019 (84 FR 72278) at *www.regulations.gov* at Docket ID No. EPA–R04–OAR–2018–0792.

[34] See Table 27 of Section 4.4 on page 35 of TDEC's July 31, 2019, SIP submission.

(b) EPA Analysis

EPA evaluated existing SO_2 modeling results for three SO_2 sources in Tennessee within 50 km of the State's border (*i.e.,* TVA-Allen, TVA-Cumberland, and TVA-Gallatin), and new modeling for Eastman Chemical, to ascertain whether these sources in Tennessee may potentially be contributing significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in a downwind state. EPA evaluated the modeling analyses provided for TVA-Allen and TVA-Cumberland in Tennessee's July 31, 2019, SIP submission. For TVA-Allen, TDEC analyzed existing DRR modeling for this source because the modeling done for TVA-Allen for Round 3 of designations had a receptor grid that already extended into the neighboring States. For TVA-Cumberland, TDEC characterized SO_2 concentrations out to 50 km from the source.[35] In addition, EPA evaluated modeling for TVA-Gallatin that TDEC provided to support the Sumner County redesignation request, which EPA has summarized in Table 2 of this section.[36] For Eastman Chemical, EPA evaluated TDEC's updated SO_2 transport modeling dated November 30, 2021. Details of the modeling for each of these four sources are discussed below and summarized in Table 2. A more detailed evaluation of Tennessee's modeling analyses for these sources is included in the Modeling Technical Support Document (TSD) available in the docket for this proposed action.

TVA-Allen and TVA-Cumberland are Round 3 DRR sources in Tennessee located within 50 km of another state.[37] In its July 31, 2019, SIP submission, TDEC modified the modeling for TVA-Cumberland submitted for Round 3 and characterized SO_2 concentrations using a receptor grid that started at the Tennessee border and ended at a distance of 50 km from the source to assess potential impacts in Kentucky, whose border is approximately 27 km away from this source. In the Round 3 designations modeling, TDEC evaluated whether there were any large sources within the modeling domain that needed to be included in the modeling to evaluate cumulative impacts. As discussed in the Round 3 designations TSD,[38] TDEC determined that no other large sources needed to be included in the modeling. EPA reviewed TDEC's modeling and has determined that no large sources are located in Kentucky that would interact with the emissions from the Cumberland plant to contribute significantly to nonattainment of the NAAQS across the Kentucky border. TDEC's modeling results showed no maximum 1-hour SO_2 concentrations above the level of the 2010 1-hour SO_2 NAAQS anywhere within the modeled domain, which extends into Kentucky.

TVA-Allen is located approximately 3.5 km from Arkansas and 9 km from

[35] As discussed in section I.B, Tennessee used air dispersion modeling to characterize air quality in the vicinity of certain SO_2 emitting sources to identify the maximum 1-hour SO_2 concentrations in ambient air which informed EPA's 2010 1-hour SO_2 NAAQS designations. The available air dispersion modeling, using AERMOD, of certain SO_2 sources can support interstate transport-related conclusions about whether sources in one state are potentially contributing significantly to nonattainment or interfering with maintenance of the 2010 1-hour SO_2 standard in other states. While AERMOD was not designed specifically to address interstate transport, the 50-km distance that EPA recommends for use with AERMOD aligns with the concept that there are localized pollutant impacts of SO_2 near an emissions source that drop off with distance. Thus, EPA proposes that the use of AERMOD provides a reliable indication of air quality for interstate transport purposes.

[36] Due to size and incompatibility with the Federal Docket Management System, the supporting modeling files for the Sumner County redesignation request (Docket ID No. EPA–R04–OAR–2020–0482) are available at the EPA Region 4 office for review. To request these files, please contact the person listed in the proposed rule for the Sumner County redesignation request under the section titled **FOR FURTHER INFORMATION CONTACT** for that action.

[37] The modeling results for Tennessee's DRR-subject sources which elected to model for Round 3 designations (TVA-Allen, TVA-Cumberland, and TVA-Johnsonville) may be found in the initial and final Round 3 technical support documents for Tennessee. *See Technical Support Document: Chapter 38 Final Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee,* at *https://www.epa.gov/sites/production/files/2017-12/documents/38-tn-so2-rd3-final.pdf; see also Technical Support Document: Chapter 38 Intended Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee,* at *https://www.epa.gov/sites/production/files/2017-08/documents/39_tn_so2_rd3-final.pdf.* TVA-Johnsonville is located approximately 52 km from the Kentucky border, and thus, TDEC did not extend the modeling domain for this DRR source. The original DRR modeling results for TVA-Johnsonville show that the highest predicted 99th percentile daily maximum 1-hour concentration within the modeling domain is 48.7 ppb. Additionally, the SO_2 emissions from TVA-Johnsonville decreased from 17,812 tpy in 2012 to 17 tpy in 2020 due to the retirement and shutdown of its coal-fired boilers in 2018. The other DRR-subject source in Tennessee, Cargill Corn Milling Company, Inc., accepted a federally enforceable emissions limit as its pathway to satisfy the DRR.

[38] EPA also notes that the SO_2 emissions from TVA-Allen decreased from 9,989 tpy in 2013 to 7 tpy in 2020 due to the retirement and shutdown of its three coal-fired boilers in 2018. Details about the current emissions from TVA-Allen and Tennessee's other DRR sources are provided in TDEC's May 10, 2021, Annual Ongoing Data Requirements Rule (DRR) Report. *See* Tennessee's 2021 DRR ongoing verification report ''Annual Ongoing Data Requirements Rule for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard'' in Docket No. EPA–R04–OAR–2019–0535 for this proposed action.

Mississippi. Because the 10-km receptor grid for the Round 3 designations modeling for TVA-Allen already extended into the neighboring states of Arkansas and Mississippi, TDEC did not conduct supplemental modeling for this source. The modeling results showed no maximum 1-hour SO_2 concentrations above the level of the 2010 1-hour SO_2 NAAQS anywhere in the modeled domain for this source.[38] A summary of the modeling results for TVA-Allen and TVA-Cumberland provided in the July 31, 2019, SIP submission is shown in Table 2 of this section.

TVA-Gallatin is a Round 2 source located in Sumner County, Tennessee.[39] In Round 2 of designations, EPA designated Sumner County as unclassifiable for the 2010 1-hour SO_2 NAAQS in its entirety because this initial Round 2 modeling for TVA-Gallatin was not adequate for designation purposes. In the September 29, 2020, Sumner County redesignation request, modeling was performed to characterize the SO_2 air quality around TVA-Gallatin.[40] The modeling results showed no maximum 1-hour SO_2 concentrations above the level of the 2010 1-hour SO_2 NAAQS within the 40 x 40 km modeling domain. EPA expects that the concentrations would decline further from the area of maximum concentration.

In addition to the results of the modeling, there are other factors which support EPA's proposed conclusion that TVA-Gallatin is not significantly contributing to nonattainment in neighboring Kentucky. There are no sources within 50 km of the Kentucky/Tennessee border emitting greater than 100 tpy of SO_2 in Kentucky or in the area between TVA-Gallatin and the Kentucky border based on 2017 NEI data. The nearest source in Kentucky that emits greater than 100 tpy of SO_2 is the TVA-Paradise Fossil Plant, which is located 115 km from TVA-Gallatin, 68 km from the Tennessee border, and 78 km from the Sumner County unclassifiable area. Given the localized range of potential 1-hour SO_2 emissions as explained in Section II of this notice, EPA proposes to determine that there would not be any interaction between this source and TVA-Gallatin that would result in concentrations which would exceed the 2010 1-hour SO_2 NAAQS. Additionally, EPA proposes that it is unlikely that SO_2 emissions from TVA-Gallatin travel into Kentucky in higher concentrations than what is observed in the modeling domain. As indicated in Table 2 of this section, the modeled maximum concentration at the state border of 23.1 ppb is well below the level of the 2010 1-hour SO_2 NAAQS. Thus, EPA proposes that TVA-Gallatin is not contributing significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in a neighboring state.

Eastman Chemical is a Round 1 source in Tennessee located within 50 km of another state. Specifically, Eastman Chemical is located in Sullivan County, Tennessee, approximately 8 km from the Virginia border and approximately 50 km from the borders of Kentucky and North Carolina. In its July 31, 2019, SIP submission, TDEC provided modeling for purposes of assessing Eastman Chemical's interstate transport impacts on neighboring states. TDEC's November 30, 2021, supplemental modeling replaces the modeling analysis TDEC submitted as part of its July 31, 2019, SIP submission for Eastman Chemical. TDEC's supplemental modeling included receptors extending out to 50 km to assess potential impacts in Virginia, North Carolina, and Kentucky. For this modeling, all SO_2 emitting units at Eastman Chemical were modeled using their current allowable emission limits from their current Title V permits, which are federally enforceable. Section III.C.3.b of this notice describes changes being made at Eastman Chemical to further reduce SO_2 emissions from the facility (*e.g.,* addition of Dry Sorbent Injection (DSI) controls on two boilers). TDEC's supplemental modeling does not account for these additional emissions reductions, but instead uses higher allowable emissions rates in their current Title V permits. The modeling results showed no maximum 1-hour SO_2 concentrations above the level of the 2010 1-hour SO_2 NAAQS in the neighboring states of Virginia, North Carolina, and Kentucky. The maximum 1-hour SO_2 modeled impacts in the neighboring states are: 9.1 ppb in Kentucky, 7.5 ppb in North Carolina, and 59.4 ppb in Virginia. Additionally, EPA assessed the SO_2 sources in the neighboring states of Kentucky, North Carolina, and Virginia to determine whether there are large SO_2 emission sources within 50 km of the Tennessee border whose SO_2 emissions could interact with Eastman Chemical's SO_2 emissions in such a way as to contribute significantly to nonattainment in Kentucky, Virginia, or North Carolina. This assessment concluded that there are no sources within 50 km that emit greater than 100 tpy in these neighboring states that needed to be assessed in the modeling performed by TDEC. Additional details regarding this analysis of sources in neighboring states are provided in Section III.C.3.b of this notice. Additional details regarding the EPA's evaluation of TDEC's modeling are provided in the Modeling TSD available in the docket supporting this proposed action. Considering the results of TDEC's modeling, EPA proposes that Eastman Chemical is not contributing significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in a neighboring state.

The following summarizes EPA's assessment of the modeling provided by TDEC for the four sources discussed in this section. TDEC's July 31, 2019, modeling for TVA-Cumberland and existing Round 3 DRR modeling for TVA-Allen show that maximum 1-hour modeled SO_2 concentrations at the distances to neighboring states' borders listed in Table 2 are below the level of the 2010 1-hour SO_2 NAAQS. The modeling results for TVA-Gallatin submitted with the Sumner County redesignation request show that maximum 1-hour modeled SO_2 concentration within the modeling domain is well below the level of the 2010 1-hour SO_2 NAAQS, and SO_2 concentrations are expected to continue to decline with distance. EPA has reviewed the modeling analyses provided in the July 31, 2019, SIP submission and proposes that TDEC's existing and supplemental modeling for TVA-Allen and TVA-Cumberland are adequate for assessing interstate transport of SO_2. Additionally, the modeling for TVA-Gallatin submitted with the Sumner County redesignation request and TDEC's supplemental modeling for Eastman Chemical, dated November 30, 2021, also provide support for this action.[41] Table 2 provides a summary of the modeling results for TVA-Allen, TVA-Cumberland, TVA-Gallatin, and Eastman Chemical.

[39] TVA-Gallatin was also subject to the DRR and thus, TDEC characterized TVA-Gallatin as a Round 3 DRR source in its July 31, 2019, SIP submission. TVA-Gallatin chose modeling for its pathway to satisfy the DRR requirements.

[40] The modeling used the most current version of AERMOD that was available at the time the modeling was conducted, version 19191, with the most recent three years of actual SO_2 emissions from the TVA-Gallatin facility (2017–2019) and concurrent meteorology data from 2017–2019.

[41] As noted in footnote 31, EPA is opting not to rely on the modeling TDEC included in the July 31, 2019, SIP submission for Eastman Chemical or for TVA-Gallatin for this action because Tennessee provided more recent modeling.

TABLE 2—SO_2 MODELING FOR TENNESSEE SOURCES TVA-ALLEN, TVA-CUMBERLAND, TVA-GALLATIN, AND EASTMAN CHEMICAL

Source	County in Tennessee	Approximate distance from source to adjacent state (km)	Other facilities included in modeling?	Modeled 99th percentile daily maximum 1-hour SO_2 concentration at or beyond the state border (ppb)	Model grid extends into another state?
TVA-Allen [42]	Shelby	3.5 (AR), 9.0 (MS).	Yes—Nucor Steel Memphis facility.	38.2 (AR), 31.3 (MS) *(based on 2012–2014 actual emissions)*.	Yes—Southeastern portions of Crittenden County in AR; and small northern portion of DeSoto County, MS.
TVA-Cumberland [43].	Stewart	27 (KY) [44]	No	19.7 (KY), *(based on 2012–2014 actual emissions)*.	Yes—KY (portions of Christian and Trigg Counties).
TVA-Gallatin	Sumner	37 (KY)	No	23.1 (TN) [45] *(based on 2017–2019 actual emissions)*.	No.
Eastman Chemical.	Sullivan	8 (VA), 50 (NC), 50 (KY).	Yes—Domtar Paper	9.1 (KY), 7.5 (NC), 59.4 (VA), *(based on allowable emissions)*.	Yes—NC (portion of Mitchell County), VA (portions of Bristol, Washington, Russell, Scott, Norton, Wise, and Lee Counties).

EPA also evaluated existing, valid modeling available for sources in other states which are located within 50 km of Tennessee to assess whether there are emissions from sources in neighboring states to which emissions from sources in Tennessee may interact and contribute to an air quality problem in the neighboring state. (The sources in Tennessee that may be relevant to this analysis are not necessarily the same four sources identified in Table 2.) Table 3 provides a summary of the modeling for the SO_2 sources in neighboring states modeled in Rounds 2 and 3 of 2010 1-hour SO_2 NAAQS designations (*i.e.,* modeling EPA determined was adequate for purposes of informing designations) which are located within 50 km of Tennessee: Plum Point in Arkansas and Sikeston in Missouri. The modeling results in Table 3 show that the maximum 1-hour modeled SO_2 concentrations for Plum Point and Sikeston are below the level of the 2010 1-hour SO_2 NAAQS.

TABLE 3—OTHER STATES' SOURCES WITH SO_2 MODELING LOCATED WITHIN 50 km OF TENNESSEE

Source	County (state)	Approximate distance from source to Tennessee border (km)	Other facilities included in modeling?	Modeled 99th percentile daily maximum 1-hour SO_2 concentration (ppb)	Model grid extends into another state?
Plum Point	Mississippi (AR).	<5 [1]	No	14.9 *(based on PTE)*	Yes—into TN (portions of Lauderdale and Tipton Counties).
Sikeston	Scott (MO)	44	Yes—AECI New Madrid Plant, Buzzi Unicem Cape Girardeau, Havco Wood Products, Noranda Aluminum, Inc.—New Madrid,[2] Q.C. Corporation.	37.2 (*based on 2012–2014 actual emissions for all facilities except for Noranda Aluminum, Inc.—New Madrid [2] which used allowable emissions*).	No.

[1] Plum Point is 2.5 km to the Tennessee border according to TDEC's July 31, 2019, SIP submission.
[2] Noranda Aluminum, Inc.—New Madrid shut down in March of 2016. The facility reopened in 2018 under a new owner, Magnitude 7 Metals.

Since the modeling results for Plum Point and Sikeston do not demonstrate an air quality problem in these areas as it pertains to the 2010 SO_2 NAAQS, EPA does not believe sources in Tennessee are contributing to nonattainment in the neighboring states near these emissions sources.

The following DRR sources in Alabama, Kentucky, Missouri, North Carolina, and Virginia located within 50 km of the Tennessee border were not

[42] The values of 31.3 ppb (MS) and 38.2 ppb (AR) reflect the modeling summary for TVA-Allen shown in Table 24 on p. 23 from TDEC's July 31, 2019, SIP submission. In Round 3 designations, the modeled maximum 1-hour SO_2 impact of TVA-Allen was 66 ppb. *See* EPA's *Technical Support Document, Chapter 38: Intended Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee,* at *https://www.epa.gov/sites/production/files/2017-08/documents/39_tn_so2_rd3-final.pdf.*

[43] The value of 19.7 ppb reflects the modeling data for TVA-Cumberland shown in Table 19 on p.29 from TDEC's July 31, 2019, SIP submission. In Round 3 of designations, the modeled maximum 1-hour SO_2 impact from TVA-Cumberland was 46.5 ppb. *See* pp.72–73 of EPA's *Technical Support Document, Chapter 38: Intended Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee,* at *https://www.epa.gov/sites/production/files/2017-08/documents/39_tn_so2_rd3-final.pdf.*

[44] In Round 3, EPA stated the approximate distance from TVA-Cumberland as 28 km south of the Kentucky border. *See* p. 75 of EPA's *Technical Support Document, Chapter 38: Intended Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Tennessee,* at *https://www.epa.gov/sites/production/files/2017-08/documents/39_tn_so2_rd3-final.pdf.*

[45] This value for the TVA-Gallatin modeling is the maximum concentration in the modeling domain, which is solely within Tennessee.

modeled or had modeling that resulted in an unclassifiable designation: Alabama's DRR source, TVA—Widows Creek Fossil Plant, located approximately 13 km from the Tennessee border, permanently shut down and therefore no modeling was done under the DRR. Alabama's DRR source, TVA—Colbert Fossil Plant, located approximately 28 km from the Tennessee border, accepted federally enforceable permit limits to exempt out of the DRR requirements. For Alabama's DRR source, Ascend, in Morgan County, Alabama, located approximately 39 km from the Tennessee border, EPA previously determined, in Round 3 SO_2 designations, that the Agency did not have sufficient information to demonstrate whether the area around Ascend meets the 2010 1-hour SO_2 NAAQS or contributes to an area that does not meet the standard, and thus designated the Morgan County area in Alabama as unclassifiable in Round 3. For Kentucky's source, John S. Cooper Power Station (Cooper) in Pulaski County, Kentucky, located approximately 43 km from the Tennessee border, EPA previously determined, in Round 2 SO_2 designations, that the Agency did not have sufficient information to demonstrate whether the area around Cooper meets the 2010 1-hour SO_2 NAAQS or contributes to an area that does not meet the standard, and thus designated the Pulaski County area in Kentucky as unclassifiable in Round 2. Missouri's DRR sources, Associated Electric Cooperative, Inc. New Madrid Power Plant (AECI—New Madrid), and Magnitude 7 Metals (formerly Noranda Aluminum Inc.—New Madrid), both located approximately less than 5 km from the Tennessee border, opted to monitor to satisfy the DRR. North Carolina's DRR sources, Duke Energy Progress—Steam Electric Plant, and Blue Ridge Paper Products (Evergreen Packaging Group)—Canton Mill (Evergreen), located approximately 51 and 28 km, respectively, from the Tennessee border, opted to monitor to satisfy the DRR and were designated in Round 4. Virginia's DRR source, American Electric Power-Clinch River Plant, located approximately 36 km from the Tennessee border, accepted federally enforceable permit limits to exempt out of the DRR requirements.[46] *See* Docket ID No. EPA–HQ–OAR–2017–0003.

As explained in the above paragraph, two DRR sources in other states located within 50 km of Tennessee conducted SO_2 designation modeling; however, EPA previously determined this modeling was insufficient to designate areas for the 2010 1-hour SO_2 NAAQS. Although EPA does not have any indications that there are violations in the areas around these two sources—Ascend[47] in Morgan County, Alabama, and Cooper[48] in Pulaski County, Kentucky—EPA assesses the SO_2 emissions from these sources in section III.C.2.b. of this notice with respect to interstate transport from Tennessee for the 2010 1-hour SO_2 NAAQS. Ascend and Cooper are located approximately 39 and 43 km, respectively, from the Tennessee border.

EPA proposes that the modeling results for the sources with valid modeling (summarized in Tables 2 and 3), weighed along with the other factors in this notice, support EPA's proposed conclusion that sources in Tennessee will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in any other state.

2. SO_2 Emissions Analysis

(a) State Submission

TDEC provided statewide SO_2 emissions inventories for 2005, 2008, 2011, 2014, and 2017[49] from the NEI by source category (*i.e.,* point, area, on-road mobile, nonroad mobile, and event (fires)), as shown in Table 4. TDEC states that the data shows substantial declines in the point source, on-road mobile, and nonroad mobile SO_2 emissions from 2005 to 2014.

TABLE 4—TENNESSEE'S NEI SO_2 EMISSIONS FOR 2005, 2008, 2011, 2014, 2017

Year	Point	Area	Mobile on-road	Mobile nonroad	Event	Year totals
2005	288,256.16	4,578.11	4,833.88	3,890.82	[1] 60.01	301,618.99
2008	258,046.16	[2] 65,175.82	877.69	590.73	1,210.11	325,900.52
2011	155,988.36	2,320.98	769.02	85.61	1,158.75	160,322.73
2014	90,283.03	1,441.94	711.10	61.88	1,702.74	94,200.68
2017 (July 31, 2019, Submission) [3]	40,569.61	[4] N/A	[4] N/A	[4] N/A	[5] None	[4] N/A

[1] The 2005 fires source category is comprised of only wildfires and no prescribed fires.

[2] With respect to the 2008 area source emissions, TDEC identifies the following factors that could have influenced the reported increase from 2005 to 2008: (1) in 2008, wildfires in east Tennessee occurred; (2) the reporting requirements for area sources changed in 2008 and EPA made adjustments to states' inventories; (3) EPA released version 3 of the NEI to replace version 2; and (4) Source Classification Codes were discontinued after the 2008 year and that could have affected the emission factors and growth rates. With respect to the change in reporting requirements noted by TDEC, those reporting requirements changed in December of 2008. *See* 73 FR 76539 (December 17, 2008).

[3] The 2017 point source emissions data in TDEC's July 31, 2019, SIP submission reflects the data available at the time. See Table 5, below, for 2017 NEI data.

[4] "N/A" means "Not Available" as presented in TDEC's July 31, 2019, SIP submission. Since the time of this submission, 2017 emissions data has become available for the Area and Mobile Sources (On-Road and Nonroad) Categories. See Table 5, below, for 2017 NEI data.

[5] The 2017 NEI EVENT source category has no data for wildfires or prescribed fires at the time of SIP development for TDEC's July 31, 2019, SIP submission. Since the time of this submission, 2017 data has become available for this source category. See Table 5, below, for 2017 NEI data.

[46] Each of the sources listed in this paragraph are covered in further detail in this notice except TVA -Widows Creek (AL), which has permanently shut down, and TVA-Colbert (AL) and American Electric Power-Clinch River Plant (VA), which both adopted enforceable limits. Additionally, TVA-Colbert reported 2020 emissions of 1.743 tpy and 2021 emissions of 4.4 tpy, and American Electric Power-Clinch River reported emissions of 79.7 tpy in 2020 and 43.467 tpy in 2021.

[47] *See* EPA's initial and final TSDs for Alabama, at *https://www.epa.gov/sites/production/files/2017-08/documents/3_al_so2_rd3-final.pdf* and *https://www.epa.gov/sites/production/files/2017-12/documents/03-al-so2-rd3-final.pdf.*

[48] Cooper is also considered a DRR source since it met the 2,000 tpy threshold for inclusion in the DRR. The source chose a federally enforceable emission limit to exempt out of the DRR requirements. However, EPA had already designated the area as unclassifiable in Round 2.

[49] For 2017, TDEC provided point source emissions only. This data was preliminary at the time of Tennessee's July 31, 2019, SIP submission, as EPA had not yet released the final 2017 NEI, which was released in April 2020.

(b) EPA Analysis

EPA reviewed the statewide emissions data provided by TDEC and also evaluated SO_2 emissions data from 1990 to 2017 for Tennessee to examine any trends in SO_2 emissions over this period. Statewide SO_2 emissions decreased from approximately 1,058,622 tons in 1990 to 46,737.72 tons in 2017.[50] EPA supplemented the NEI emissions trends that TDEC included in the July 31, 2019, SIP submission when the 2017 NEI was finalized and made publicly available in January 2021, and all the source categories are now available. See Table 5, below.

TABLE 5—TENNESSEE'S NEI SO_2 EMISSIONS FOR 2017

[2017 NEI January 2021 version]

Year	Point	Area	Mobile on-road	Mobile nonroad	Event	Year totals
2017 NEI (January 2021 version)	41,191.44	3,185.61	678.34	40.68	1,641.64	46,737.72

In addition to reviewing SO_2 emissions trends in Tennessee, as discussed in section III.B, EPA also finds that it is appropriate to examine the impacts of SO_2 emissions from stationary sources emitting greater than 100 tons of SO_2 in Tennessee at distances ranging from zero km to 50 km from a neighboring state's border. Therefore, in addition to those sources addressed in section III.C.1.b. of this notice, EPA also assessed the potential impacts of SO_2 emissions from stationary sources not subject to the DRR that emitted more than 100 tons of SO_2 in 2019 and are located in Tennessee within 50 km of the border. EPA assessed this information to evaluate trends in area-wide air quality and to evaluate whether the SO_2 emissions from these sources could interact with SO_2 emissions from the nearest source in a neighboring state in such a way as to significantly contribute to nonattainment of the 2010 1-hour SO_2 NAAQS in that state. Table 6 lists the 10 sources in Tennessee not subject to the DRR that emitted greater than 100 tpy of SO_2 in 2019 and are located within 50 km of the State's border. EPA focused on identifying the nearest non-DRR sources to the Tennessee sources as the DRR sources are covered under other pathways like modeling, monitoring, or taking an enforceable limit. EPA did look to see if a DRR source was the nearest SO_2 source in a neighboring state and found that in some instances, a DRR source was a closer SO_2 source. The shortest distance between a Tennessee source and the nearest neighboring DRR source was approximately 77 km. Additionally, the two nearest DRR sources identified were TVA Paradise in Kentucky, which was modeled using allowable emissions limits, and Blue Ridge Paper, which was characterized by monitoring and later had modeling which showed attainment. Both of these sources are adequately characterized through the DRR process, and because they are greater than 50 km from any of the Tennessee sources listed in Table 6, EPA does not anticipate a transport problem/interaction.

TABLE 6—TENNESSEE NON-DRR SO_2 SOURCES EMITTING GREATER THAN 100 TPY NEAR NEIGHBORING STATES

Tennessee source [1]	2021 annual SO_2 emissions (tpy)	Approximate distance to Tennessee border (km)	Closest neighboring state	Approximate distance to nearest neighboring state SO_2 source (km)	Nearest neighboring state non-DRR SO_2 source (>100 tons SO_2) & 2021 emissions (tpy)
Florim USA, Inc	[5] 153.8	<5 (KY)	Kentucky	109	CC Metals and Alloys LLC (348.7).[5]
Nyrstar Clarksville, Inc	377.9	14 (KY)	Kentucky	103	CC Metals and Alloys LLC (348.7).[5]
Nucor Steel Memphis, Inc	[5] 176.9	<5 (AR), <5 (MS)	Arkansas	51	Roxul USA Inc. (139.6).
Tate & Lyle, Ingredients Americas LLC	154.4	45 (NC)	North Carolina	153	Tennessee Alloys Company [2] (639.6).
Packaging Corporation of America	228.9	<5 (MS)	Mississippi	27	Mississippi Silicon (503.7).[5]
AGC Industries—Greenland Plant	[5] 421.6	11 (VA)	Virginia	126	SGL Carbon LLC (54.6).[3]
BAE SYSTEMS Ordnance Systems Inc. Holston Army Ammunition Plant (Holston) [4].	1,052.9	<5 (VA)	Virginia	122	Eastman Chemical (3541.9).
Resolute Forest Products—Calhoun Operations.	328.8	34 (GA), 43 (NC)	Georgia	95	Tennessee Alloys Company [1] (639.6).
Lucite International Inc	[5] 313.1	9 (AR), 30 (MS)	Arkansas	46	Roxul USA Inc (139.6).[6]
Memphis International	115.7	<5 (MS)	Mississippi	34	Roxul USA Inc (139.6).

[1] Eastman is also a non-DRR source that could have been classified in Table 6; however, the facility is discussed in greater detail below in Section III.3.b.
[2] Tennessee Alloys Company is in Alabama.
[3] SGL Carbon LLC is in North Carolina.
[4] See below for a more detailed discussion on BAE SYSTEMS Ordnance Systems Inc. Holston Army Ammunition Plant (Holston).
[5] Sources have not reported annual 2021 SO_2 emissions at the time of publication. The values reported for this source are from 2020.
[6] Roxul USA Inc is in Mississippi.

EPA does not have monitoring or modeling data suggesting that any of the states of Arkansas, Georgia, Kentucky, Mississippi, North Carolina, or Virginia are impacted by SO_2 emissions from the Tennessee sources listed in Table 6. Of these 10 sources, three are located at or less than 50 km from the nearest source in another state: Packaging Corporation of America, Lucite International Inc., and Memphis International. As shown in Table 6, the nearest sources in neighboring states to these three Tennessee sources are Mississippi Silicon and Roxul USA Inc., which

[50] State annual emissions trends for criteria pollutants of Tier 1 emission source categories from 1990 to 2017 are available at: *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data.*

emitted 647.8 tons and 102.9 tons of SO_2 in 2019, respectively. EPA proposes that the relatively low SO_2 emissions of the three Tennessee sources, combined with the SO_2 emissions from the nearest neighboring states' sources shown in Table 6, make it unlikely that the SO_2 emissions from these Tennessee sources could interact with SO_2 emissions from the out-of-state sources in such a way as to contribute significantly to nonattainment in any other state.

Of the 10 Tennessee sources in Table 6, seven are located over 50 km from the nearest source in another state (*i.e.,* Arkansas, Georgia, Kentucky, North Carolina, and Virginia) emitting over 100 tons of SO_2. EPA proposes that the fact that the distances between sources are greater than 50 km, combined with the level of SO_2 emissions from these Tennessee sources and the nearest sources emitting greater than 100 tons of SO_2 in the neighboring states, makes it unlikely that SO_2 emissions from these seven sources could interact with SO_2 emissions from the out-of-state sources in such a way as to contribute significantly to nonattainment in those other states.

One of these seven sources is the Holston military facility, located in Hawkins County, Tennessee, less than 5 km from the Tennessee-Virginia border. Holston has achieved a 31 percent reduction in emissions from the years 2017 to 2020 due to the changes at the facility. Holston emitted 1,767.6 tpy SO_2 in 2017, 1,621.1 tpy SO_2 in 2018, and 1,389.2 tpy SO_2 in 2019. The nearest non-DRR SO_2 source emitting greater than 100 tpy in a nearby state is SGL Carbon LLC, located 122 km away in North Carolina. EPA further evaluated Holston due to the magnitude of the source's SO_2 emissions in 2019 and the proximity of the source to the Virginia border (less than 5 km) and its proximity to the Sullivan County nonattainment area.[51] In 2020, Holston's four coal-fired boilers emitted 1,224 tons of SO_2, or nearly all SO_2 emissions from this facility that year.[52] EPA received a letter dated November 1, 2021, which stated that the last remaining unit of the four, coal-fired boiler #2, had ceased operation and was last operated on October 4, 2021. Since this time, the Holston facility has been operated with new natural gas steam units.[53] EPA expects a large reduction in SO_2 emissions due to the fuel switch from burning coal to natural gas.[54] EPA proposes that it is unlikely that the SO_2 emissions from Holston alone or in combination with Eastman will contribute significantly to nonattainment in North Carolina based on the reduction of the source's SO_2 emissions from the conversion to natural gas.

EPA also reviewed the location of sources in neighboring states emitting more than 100 tpy of SO_2 and located within 50 km of the Tennessee border (see Table 7). This is because elevated levels of SO_2, to which SO_2 emitted in Tennessee may have a downwind impact, are most likely to be found near such sources. As with Table 6, EPA looked to see if a DRR source was the nearest SO_2 source in a neighboring state and found that for the sources in Table 7, the sources indicated are the nearest SO_2 source. There are no DRR sources that are closer than the sources indicated in the table.

TABLE 7—NEIGHBORING STATES' NON-DRR SO_2 SOURCES EMITTING GREATER THAN 100 TPY NEAR TENNESSEE [1]

Source [2]	2021 annual SO_2 emissions (tons)	Approximate distance to Tennessee border (km)	Approximate distance to nearest Tennessee SO_2 source (km)	Tennessee non-DRR SO_2 source (>100 tons SO_2) & 2021 emissions (tons)
Nucor-Yamato Steel Company (AR)	348.5	<5	73	Lucite International Inc. (313.1).
Nucor Steel Arkansas (AR)	110.3	<5	78	Lucite International Inc. (313.1).
Nucor Steel Decatur LLC (AL)	127.2	38	115	Packaging Corporation Of America (228.9).

[1] Table 7 does not include sources that are duplicative of those in Table 6.
[2] EPA also reviewed the emissions from DRR sources near the Tennessee border, however, the sources covered in this table are the closest sources regardless of being a DRR or non-DRR source.

As shown in Table 7, the shortest distance between any pair of these sources is 73 km. Therefore, given the localized range of potential 1-hour SO_2 impacts, and the level of emissions emitted at these sources, EPA proposes that it is unlikely that SO_2 emissions from the sources in Alabama and Arkansas could interact with SO_2 emissions from Tennessee's nearest non-DRR sources in such a way as to contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in Alabama and Arkansas.

In addition, EPA evaluated SO_2 emissions trends for Ascend in Alabama and Cooper in Kentucky, which are within 50 km of the Tennessee border and for which EPA could not rely on existing air dispersion modeling to assess their impacts for interstate transport for the 2010 1-hour SO_2 NAAQS on other states. Ascend is approximately 39 km from the Tennessee border. For Ascend, Table 8 shows that 2020 SO_2 emissions have significantly declined below 2012–2019 levels.[55] EPA also considered whether any changes in controls or operations had occurred at Ascend. According to emails from Alabama's Department of Environmental Management (ADEM) to EPA on June 6, 2019, and December 2,

[51] On May 31, 2018, BAE SYSTEMS Ordnance Systems, Inc. (BAE) submitted an application for a permit to construct and operate an expansion of an existing explosives manufacturing operation at the Holston Army Ammunition Plant Area B facility located in Hawkins County. The proposed expansion is a multi-phase project, and the current application covers the first phase only. Phase I will include four new natural gas and oil-fired boilers and operations for recrystallization, coating, and milling of explosives. Phase I will also include the retirement of four existing coal-fired boilers (units 37–0028–01, 37–0028–02, 37–0028–03, and 37–0028–04) upon startup of the new natural gas-fired steam generating boilers (37–0028–120, 37–0028–121, 37–0028–122, and 37–0028–123). On October 8, 2018, TDEC issued a PSD permit (Permit No. 974192) that includes a provision that the permittee must notify the State when boilers 37–0028–01, 02, 03, and 04 have ceased operation. This permit is available in the online docket for this action under Docket ID No. EPA–R04–OAR–2019–0535 at *http://www.regulations.gov.*

[52] Emissions data obtained using EPA's Emissions Inventory System at *eis.epa.gov.*

[53] See the November 2, 2021 email from TDEC to EPA Region 4 transmitting a letter from BAE regarding Notification of Ceased Operation for Boiler #2 at Holston Army Ammunition ''OSI HSAAP 37–0028–01 to-04 Notification of Ceased Operations.pdf'' located in the docket for this action.

[54] See ''974192-Final Determination.pdf'' in the docket for this action.

[55] See Tennessee's July 31, 2019, submittal for specific data on the Ascend facilities.

2019, Ascend had ceased operating Boiler #5 and anticipated the retirements of Boiler #6 in 2020, and Coker #1 and #2 in 2021.[56] However, EPA notes, as of November 30, 2021, that Boiler #5 and Coker #2 were removed from service in 2019 and 2021, respectively and Coker #1 and Boiler #6 are still authorized to operate under the facility's current Title V permit. EPA also evaluated data in EPA's Air Quality System (AQS) [57] from the SO_2 monitors in the surrounding area of Ascend. There are no monitors within 50 km of Ascend. The closest SO_2 monitor is located in Jefferson County, Alabama (AQS ID: 01–073–1003) and is approximately 128 km from Ascend. The 2020–2022 DV for this monitor is 6 ppb. The closest source in Tennessee to Ascend which emitted over 100 tpy of SO_2 in 2019 is Packaging Corp. of America, which is approximately 123 km away from Ascend and emitted 347.9 tons of SO_2 in 2019. The distance between Ascend and Packaging Corp. of America exceeds 50 km. EPA proposes that the distance between these two sources make it unlikely that SO_2 emissions from Ascend could interact with SO_2 emissions from Packaging Corp. of America in such a way as to contribute significantly to nonattainment in Alabama.

TABLE 8—ASCEND—SO_2 EMISSIONS TRENDS

[TPY]

Alabama source	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Ascend	2,182	2,595	2,839	2,594	2,179	1,628	1,436	1,020	100	771

EPA also evaluated SO_2 emissions trends for Kentucky's DRR source, Cooper, which is within 50 km of the Tennessee border (approximately 43 km) and for which EPA could not rely on existing Round 2 air dispersion modeling to assess its interstate transport impacts on other states for the 2010 1-hour SO_2 NAAQS. Available SO_2 emissions data from EPA's Air Markets Program Data (AMPD) indicates that emissions at Cooper have decreased since 2012 from 7,428 tons to 47 tons in 2020 as shown in Table 9.[58] The closest source in Tennessee to Cooper which emitted over 100 tpy of SO_2 in 2020 is TVA Bull Run Fossil Plant (Bull Run) in Clinton, Tennessee, which is approximately 116 km away from Cooper and emitted approximately 229 tons of SO_2 in 2020. EPA proposes that the distance between these two sources makes it unlikely that SO_2 emissions from Cooper could interact with SO_2 emissions from Bull Run in such a way as to contribute significantly to nonattainment in Kentucky.

TABLE 9—COOPER—SO_2 EMISSIONS TRENDS

[TPY]

Kentucky source	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Cooper	7,428	4,604	4,324	1,804	320	110	148	81	47	165

EPA's analysis of SO_2 emissions trends information, the Tennessee sources in Table 6, neighboring states' sources in Table 7, and emissions trends data related to Ascend and Cooper in Tables 8 and 9 support its conclusion that sources in Tennessee will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in a nearby state.

3. SO_2 Ambient Air Quality

(a) State Submission

In its SIP submission, TDEC included a table providing 2015–2017 and 2016–2018 DVs and annual 99th percentile SO_2 concentrations for monitors in Tennessee and the surrounding states (Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, South Carolina, and Virginia).[59] TDEC states that all valid DVs in the attainment/unclassifiable areas for the 2010 1-hour SO_2 NAAQS in Tennessee and surrounding states are attaining the standard.

(b) EPA Analysis

EPA reviewed monitoring data for monitors in Tennessee within 50 km of another state and for monitors within 50 km of Tennessee in adjacent states using relevant data from EPA's AQS DV reports. The 2010 1-hour SO_2 standard is violated at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50. Of the six monitors in Tennessee located within 50 km of another state, EPA has summarized the DVs based on certified monitoring data in Tables 10 and 11. Table 10 provides DVs from the 2012–2014 to 2019–2021 DV periods for the Blount and Shelby County monitors. Table 11 shows the DVs from the four monitors located in the Sullivan County, Tennessee nonattainment area. The most recent certified 3-year DV period is 2020–2022.

[56] See supra footnote 33.

[57] EPA's AQS contains ambient air pollution data collected by EPA, state, local, and tribal air pollution control agencies. This data is available at *https://www.epa.gov/air-trends/air-quality-design-values.*

[58] This data is available at *https://ampd.epa.gov/ampd/*. EPA's AMPD is an application that provides both current and historical data collected as part of EPA's emissions trading programs.

[59] See Table 1 of Tennessee's July 31, 2019, SIP submission.

TABLE 10—1-HOUR SO_2 DVS (ppb) FOR AQS MONITORS IN TENNESSEE WITHIN 50 km OF ANOTHER STATE

County	AQS site code	2012–2014	2013–2015	2014–2016	2015–2017	2017–2018	2017–2019	2018–2020	2019–2021	2020–2022	Approximate distance to Tennessee border (km)
Blount	47–009–0101 ...	[1] ND	[1] ND	[1] ND	2	2	1	1	1	[1] ND	14
Shelby ...	47–157–0075 ...	9	9	8	7	6	4	2	2	2	17

[1] ND indicates that there is no valid DV due to monitor startup or shutdown (operated less than three years), data quality issues, or incomplete data.

As shown in Table 10, the DVs for the Blount County, Tennessee monitor from 2014–2016 to 2019–2021 and the DVs for the Shelby County, Tennessee monitor for 2012–2014 to 2020–2022 are well below the level of the 2010 1-hour SO_2 NAAQS.

(c) Analysis of Eastman Chemical in Sullivan County, Tennessee

There are four AQS monitors in Sullivan County: AQS ID 47–163–6001, 47–163–6002, 47–163–6003, and 47–163–6004. These monitors do not have valid DVs prior to 2017–2019 and are located within 50 km of the Tennessee border (*i.e.,* approximately 7, 9, 8, and 9 km, respectively, from the nearest interstate border, Tennessee-Virginia). Two of these monitors, AQS ID 47–163–6001 and 47–163–6002, have four sets of complete DVs (2017–2019 through 2020–2022) and the other two monitors, AQS ID 47–163–6003 and 47–163–6004, have two sets of complete DVs (2019–2021 through 2020–2022). As seen in Table 11, one of these monitors (AQS ID 47–163–6003) violated the NAAQS with a 2019–2021 DV of 87 ppb.[60] This monitor is located north of the Eastman Chemical facility, in the direction of the Virginia border. It is also 1.3 km upwind and in the same wind direction of an attaining monitor in the nonattainment area, AQS ID: 47–163–6001, indicating that concentrations are below the standard within Tennessee's border. However, with new, early certified 2022 data that was submitted to EPA in March 2023 and included in the docket of this proposed action, monitor AQS ID 47–163–6003 is attaining the primary SO_2 NAAQS with a DV of 71 ppb. In Table 11, a downward trend is also observed among all DVs at monitors within 50 km of Eastman Chemical.

TABLE 11—1-HOUR SO_2 DVS (ppb) FOR SULLIVAN COUNTY, TENNESSEE MONITORS WITHIN 50 km OF THE TENNESSEE BORDER

County (state)	Monitored source	AQS ID	2017–2019 DV	2018–2020 DV	2019–2021 DV	2020–2022 DV	Approximate distance to border (km)	Approximate distance from Eastman Chemical (km)
Sullivan County (TN)	Eastman Chemical	47–163–6001	79	63	49	41	7 (VA), 49 (NC), 52 [1] (KY) ...	2.5
Sullivan County (TN)	Eastman Chemical	47–163–6002	55	38	27	27	9 (VA), 47 (NC), 53 [1] (KY) ...	3.3
Sullivan County (TN)	Eastman Chemical	47–163–6003	[2] ND	[2] ND	87	71	8 (VA), 48 (NC), 51 [1] (KY) ...	1.2
Sullivan County (TN)	Eastman Chemical	47–163–6004	[2] ND	[2] ND	53	51	9 (VA), 47 (NC), 51 [1] (KY) ...	1.2

[1] These distances to the Kentucky border are estimated at just over 50 km and thus, are included for informational purposes.
[2] ND indicates that the monitors established in Sullivan County (AQS ID: 47–163–6003 and 47–163–6004) to measure SO_2 in the areas with modeled maximum concentrations around Eastman Chemical officially began collecting data for NAAQS comparison on January 1, 2019, and thus do not have a valid DV for 2019 and 2020.

Eastman Chemical is located in Sullivan County, Tennessee, approximately 8 km from the Virginia border and approximately 50 km from the borders of Kentucky and North Carolina. Given the decreasing gradient measured in the 2019–2021 DVs between the 47–163–6003 and 47–163–6001 monitors over 1.3 km, it may be the case that SO_2 emissions from the source would not contribute to nonattainment in Virginia, which is several more kilometers beyond the attaining monitor. Given that the physical properties of SO_2 result in relatively localized pollutant impacts, the decreasing gradient measured in the 2019–2021 DVs between the monitors over only 1.3 km indicates that it is unlikely that SO_2 emissions from the Eastman Chemical facility would contribute to nonattainment in the neighboring states that are 8 km–50 km from Eastman Chemical. However, considering the data in Table 11, EPA conducted further analysis, including an evaluation of design values, an assessment of new modeling provided by TDEC that uses Eastman Chemical's current allowable emissions limits contained in its Title V permits (see section III.C.1.b), and an assessment of both the current actual emissions scenario and likely future emissions scenario at Eastman Chemical to assess whether Eastman Chemical's SO_2 emissions could contribute significantly to nonattainment in Kentucky, North Carolina, or Virginia. This analysis is discussed in the following paragraphs.

In Round 1 of SO_2 designations, EPA designated as nonattainment the portion of Sullivan County contained in a 3-km radius circle centered at Eastman Chemical's B–253 powerhouse, which contained a single monitor that was violating the 2010 1-hour SO_2 NAAQS based on 2009–2011 air quality data. The SO_2 emissions at Eastman come from three main boiler groups, B–83, B–253, and B–325. Powerhouse B–253 includes five boilers (Boilers 25–29), each with an individual stack, that provide steam and electricity to the facility. Powerhouse B–325 includes two coal-fired boilers that vent to a single stack (Boiler 30 and Boiler 31). Boiler 30 is equipped with a spray dryer absorber and electrostatic precipitator to control particulate matter and acid gases. Boiler 31 is equipped with a spray dryer absorber and fabric filter to control particulate matter and acid

[60] See below in section III.A.3.c and III.D.2 for more analysis on the gradient decrease between 47–163–6003 and 47–163–6001 monitors.

gases. Powerhouse B–83 includes seven boilers; five coal-fired boilers (Boilers 18–22) and two coal-fired boilers (Boilers 23 and 24) that also burn hazardous wastewater treatment sludge, venting to a single stack.[61]

Since Round 1 of designations, Eastman Chemical has converted the five B–253 boilers (25–29) from burning coal to natural gas.[62] This conversion reduced the combined SO_2 emissions from these units by over 99.9 percent (from 14,897 tpy in 2011 to less than 10 tpy in 2019). This conversion took place incrementally from 2014–2018 as follows: Boiler 25 in March of 2014, Boiler 27 in June of 2016, Boiler 28 in December of 2016, Boiler 29 in June of 2018, and Boiler 26 in September of 2018. The emissions reductions at the B–253 boilers can be seen in Table 13, below. Total SO_2 emissions at the facility from all emissions units have decreased over this time period from 21,246 tpy in 2012 to 3,542 tpy in 2021, as seen in Table 13, below.

Additionally, Eastman Chemical installed temporary dry sorbent injection (DSI) controls[63] on the B–83 powerhouse Boilers 23 and 24 on June 1, 2019, which have further reduced SO_2 emissions, as shown in Table 13. The temporary DSI controls were installed as an interim measure to address the measured exceedances of the 1-hr SO_2 NAAQS in 2019, discussed above, and were operated in 2019–2021 by Eastman while design and installation of permanent DSI controls took place. EPA evaluated the effect of the temporary DSI controls by comparing the average hourly SO_2 emissions from Eastman's nine coal-fired boilers at B–83 (boilers 18–24) and B–325 (boilers 30 and 31) in 2019 prior to installation of the DSI controls (January 1, 2019, to May 31, 2019) with the average hourly emissions after installation of the controls (June 1, 2019, to December 31, 2019). The results of this evaluation show that the average hourly SO_2 emissions decreased from 1,338 pounds per hour (lb/hr) (January 1 to May 1) to 793 lb/hr (June 1 to December 31), which is approximately a 40 percent reduction in average hourly emissions. Eastman completed installation of permanent DSI controls at B–83 Boilers 23 and 24 in November 2021, and the controls became fully operational in January 2022 after performance testing. Tennessee continues to work with Eastman Chemical to consider additional SO_2 controls at the facility. The Andrew Johnson (AQS ID: 47–163–6003) and Happy Hill (AQS ID: 47–163–6004) ambient SO_2 monitors continued to measure exceedances of the 1-hour SO_2 NAAQS in 2020, 2021, and 2022, while the permanent DSI control system was under construction. However, as seen in Table 12 below, the number of NAAQS exceedances have decreased significantly at monitors near Eastman Chemical. The other two SO_2 monitors in the nonattainment area (Ross N. Robinson, AQS ID: 47–163–6001; Skyland Drive, AQS ID: 47–163–6002) did not measure any NAAQS exceedances during 2019–2022. Additional information and discussion about the current attainment status of the area, the NAAQS exceedances at these two monitors, and the controls and operational changes Eastman is pursuing to bring the area back into attainment with the 1-hour SO_2 NAAQS is provided in the TSD available in the docket for this proposed rule.

TABLE 12—EXCEEDANCES AT EASTMAN CHEMICAL

[Days]

Monitor	AQS ID	2019	2020	2021	2022	Total
Andrew Johnson	47–163–6003	18	3	4	0	25
Happy Hill	47–163–6004	2	1	2	2	7

TABLE 13—EASTMAN CHEMICAL—SO_2 EMISSIONS TRENDS

[TPY] [From EPA's EIS]

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
B–253–1 COAL FIRED BOILERS #25–29	14,171	14,195	12,034	10,638	7,765	4,779	2,367	6	6	7
B–325–1 COAL FIRED BOILERS #30 AND 31	1,363	1,435	1,330	1,306	1,348	1,340	1,371	1,346	1,276	1,208
B–83–1 COAL FIRED BOILERS #18–24	5,549	5,809	6,013	5,879	5,055	4,447	5,274	3,118	1,558	2,296
Total Emissions from all other Emissions Units	163	160	161	156	156	180	104	40	31	31
Eastman Chemical Total SO_2 Emissions	21,246	21,600	19,538	17,978	14,324	10,746	9,116	4,510	2,871	3,542

EPA also assessed the SO_2 sources in the neighboring states of Kentucky, North Carolina, and Virginia to determine whether there are large SO_2 emission sources within 50 km of the Tennessee border whose SO_2 emissions could interact with Eastman Chemical's SO_2 emissions in such a way as to contribute significantly to nonattainment in Kentucky, Virginia, or North Carolina. EPA identified only one source, located in Virginia, which is within 50 km of Eastman Chemical and has SO_2 emissions greater than 100 tpy based on 2017 NEI emissions data. EPA accessed more current SO_2 emissions for this Virginia source, Dominion—Virginia City Hybrid Energy Center, from EPA's AMPD.[64] The source emitted 95 tons of SO_2 in 2018 and 69 tons of SO_2 in 2019 and 2020. Based on this more recent data, EPA concludes there are no large SO_2 emission sources

[61] Prior to September 2021, the emissions from the seven coal-fired boilers in the B–83 powerhouse were exhausted through two stacks, one which served boilers 18–22 and another which served boilers 23 and 24. Due to structural deterioration, Eastman decommissioned the stack that served boilers 18–22 on September 10, 2021. Following the decommissioning of the stack, all emissions from Boilers 18–24 are now ducted to and emitted from the stack that previously only served Boilers 23 and 24.

[62] Eastman's conversion of the five B–253 boilers from coal to natural gas was required to meet Best Available Retrofit Technology (BART) requirements under the Federal Regional Haze Program. The conversion requirement is incorporated into Tennessee's regional haze SIP and into the facility's Title V permit. *See* 77 FR 70689 (November 27, 2012); Eastman Operating Permit No. 066116H.

[63] DSI is a control system that involves injection of a dry alkaline material such as a sodium or calcium-based sorbent (*i.e.,* a material that absorbs or adsorbs gases) either directly into a coal-fired boiler or into ducting downstream of where coal is combusted and exhaust (flue) gas that reacts with acid gas pollutants (*e.g.,* SO_2) to form a dry waste product which is then collected through a particulate filtration device.

[64] This data is available at *https://ampd.epa.gov/ampd/.*

in neighboring states within 50 km of Eastman Chemical.

(d) EPA Analysis Continued—Monitors Outside of Tennessee

No sources in Tennessee elected to establish monitors to characterize the air quality around specific sources subject to EPA's DRR for the 2010 1-hour SO_2 NAAQS in lieu of modeling. There are four DRR monitors located in other states within 50 km of the Tennessee border. These four monitors, which are in Missouri and North Carolina, do not have valid DVs prior to the 2017–2019 DV time period. Thus, EPA identified in Table 14 the 2017–2019 DVs, 2018–2020 DVs, and 2019–2021 DVs, along with the distance between each source and the border of Tennessee.

TABLE 14—SO_2 DESIGN VALUE CONCENTRATIONS (ppb) FOR ROUND 4 DRR MONITORS IN SURROUNDING STATES WITHIN 50 km OF THE TENNESSEE BORDER

County (state)	Round 4 monitored source	AQS ID	2017–2019 design value	2018–2020 design value	2019–2021 design value	Approximate distance to Tennessee border (km)
New Madrid County (MO) ...	Magnitude 7 Metals[1]	29–143–9001	202	320	376	3
New Madrid County (MO) ...	Magnitude 7 Metals[1]	29–143–9002	268	361	333	3
New Madrid County (MO) ...	Magnitude 7 Metals[1]	29–143–9003	47	68	83	4
Haywood County (NC)	Blue Ridge Paper Products, LLC (BRPP).	37–087–0013	152	90	36	30

[1] Noranda Aluminum, Inc.—New Madrid shut down in March of 2016. The facility reopened in 2018 under a new owner, Magnitude 7 Metals.

EPA evaluated the 2017–2019, 2018–2020, and 2019–2021 DVs at the four DRR monitors in Table 14. The New Madrid County, Missouri, monitor (AQS ID: 29–143–9001) has a 2017–2019 DV of 202 ppb, a 2018–2020 DV of 320 ppb, and a 2019–2021 DV of 376 ppb, all of which violate the 2010 1-hour SO_2 NAAQS. The New Madrid County, Missouri, monitor (AQS ID: 29–143–9002) has a 2017–2019 DV of 268 ppb, a 2018–2020 DV of 361 ppb, and a 2019–2021 DV of 333 ppb, all of which violate the 2010 1-hour SO_2 NAAQS. The New Madrid County, Missouri, monitor (AQS ID: 29–143–9003) has a 2017–2019 DV of 47 ppb and 2018–2020 DV of 68, both of which are below the level of the 2010 1-hour SO_2 NAAQS; however, the 2019–2021 DV of 83 ppb violates the 2010 1-hour SO_2 NAAQS. Regarding the violating DVs at the three New Madrid County, Missouri, monitors in Table 14, EPA notes that there are no SO_2 emission sources in Tennessee emitting over 100 tpy within 50 km of these monitors based on 2019 data. The nearest SO_2 source in Tennessee that emitted over 100 tons of SO_2 in 2019 is located approximately 114 km away from the Missouri monitors in Table 14, which is well beyond the 50-km transport distance threshold discussed in Section II.[65] EPA notes a portion of New Madrid County surrounding the three New Madrid SO_2 monitors, Magnitude 7 Metals and Associated Electric Cooperative, Inc., New Madrid Power Plant was designated nonattainment for the SO_2 1-hour standard in Round 4 designations.[66]

The Haywood County, North Carolina, monitor has a 2017–2019 DV of 152 ppb, a 2018–2020 DV of 90 ppb, and a 2019–2021 DV of 36 ppb. While both the 2017–2019 and 2018–2020 DVs violate the 2010 1-hour SO_2 NAAQS, the 2019–2021 DV of 36 ppb is below the 2010 1-hour SO_2 NAAQS.[67] EPA notes that there are no SO_2 emission sources in Tennessee emitting over 100 tpy within 50 km of the Haywood County, North Carolina, monitor. The nearest source in Tennessee that emitted over 100 tons of SO_2 in 2019 is located approximately 103 km away from the Haywood County, North Carolina, monitor, which is well beyond the 50-km transport distance threshold discussed in Section II.[68]

After careful review of the State's assessment and all available monitoring data and related source information, EPA proposes that the AQS monitoring data assessed and the lack of any sources emitting over 100 tons of SO_2 in 2019 in Tennessee within 50 km of adjacent states' monitors with 2017–2019, 2018–2020, and 2019–2021 DVs that violated the 2010 1-hour SO_2 NAAQS support EPA's proposed conclusion that Tennessee will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in the neighboring states.

4. SIP-Approved Regulations Addressing SO_2 Emissions

(a) State Submission

Tennessee's July 31, 2019, SIP submission identifies SIP-approved measures which help ensure that SO_2 emissions in the State will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in any other state. TDEC states that Tennessee Comprehensive Rules and Regulations (TCRR) 1200–03–09.–01, *Construction Permits,* regulates the construction of new sources and modification of existing sources, and it highlights section .01(1)(e), which prohibits TDEC from issuing a construction permit to construct or modify an air contaminant source[69] if the construction or modification would, among other things, interfere with attainment or maintenance of a NAAQS in a neighboring state. In addition, TDEC also states that TCRR 1200–03–06.–03, *General Non-Process Gaseous Emissions,* and 1200–03–07.–07, *General Provisions and Applicability for Process Gaseous Emissions Standards,*

[65] This Tennessee source, Owens Corning Composite Materials, LLC (EIS ID: 3100911), emitted 106.6 tons of SO_2 in 2019.

[66] *See* 86 FR 16055 (March 26, 2021).

[67] EPA designated Beaverdam Township in Haywood County as attainment/unclassifiable in Round 4 designations based on modeling of permanent and federally enforceable SO_2 emission limits for the Blue Ridge Paper Products facility, which provided for attainment of the 1-hour standard. *See* 86 FR 16055. For additional information about round 4 designations for Beaverdam Township in Haywood County, NC see *https://www.epa.gov/sulfur-dioxide-designations/epa-completes-fourth-round-sulfur-dioxide-designations* including the final technical support document for North Carolina *https://www.epa.gov/sites/default/files/2020-12/documents/07-nc-rd4_final_so2_designations_tsd.pdf* and the EPA's November 24, 2020, final rule approving North Carolina's, source-specific SIP submittal to make Blue Ridge's modeled SO_2 emission limits permanent. *See* 85 FR 74884.

[68] This Tennessee source, Cemex Construction Materials Atlantic, LLC—Knoxville Plant (EIS ID: 4979911), emitted 138.5 tons of SO_2 in 2019.

[69] ''Air Contaminant Source'' is defined at TCRR 1200–03–02.–01(1)(b) as ''any and all sources of emission of air contaminants, whether privately or publicly owned or operated.''

regulate gaseous emissions from non-process and process emission sources, respectively. Further, TDEC notes that TCRR 1200–03–13.–01, *Violation Statement,* provides for enforcement action for any failure to comply with Tennessee's air regulations.

(b) EPA Analysis

As part of EPA's weight of evidence approach to evaluating 2010 SO_2 transport SIPs, EPA considered Tennessee's SIP-approved measures summarized in III.C.4.a. of this notice that address SO_2 emissions sources in the State. As noted in TDEC's SIP revision, the State has a SIP-approved permitting rule—TCRR 1200–03–09–.01—that applies to major and minor sources generally and prohibits TDEC from issuing a construction permit to construct or modify an air contaminant source if the construction or modification would interfere with attainment or maintenance of a NAAQS in a neighboring state. The State also has SIP-approved major new source review (NSR) rules at TCRR 1200–03–09–.01(4) and –.01(5) covering PSD and nonattainment new source review (NNSR) permitting, respectively. PSD applies to the construction of any new major stationary source or any major modification at an existing major stationary source in an area designated as attainment or unclassifiable or not yet designated, and NNSR applies in nonattainment areas. Tennessee's SIP-approved permitting rules may help in ensuring that SO_2 emissions due to construction or modification of major and minor sources in Tennessee will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in neighboring states. However, without more information regarding the application of the interstate-transport analysis within the state's permitting process, EPA cannot form a conclusive position whether this is sufficient for approvability of the state's good neighbor SIP submittal evaluated here as to new or modifying sources. Further, new source permitting requirements do not address emissions from existing emissions units. Nonetheless, the EPA finds based on other information as discussed in this proposal that Tennessee's SIP submission can be approved.

EPA preliminarily agrees that SIP-approved regulation, TCRR 1200–3–13–.01, *Violation Statement,* provides TDEC with authority for enforcement of SO_2 emission limits and control measures. This rule states that, ''Failure to comply with any of the provisions of these [air] regulations shall constitute a violation thereof and shall subject the person or persons responsible therefore to any and all the penalties provided by law.''

5. Federal Regulations Addressing SO_2 Emissions in Tennessee

(a) State Submission

TDEC identified EPA programs which, either directly or indirectly, have significantly reduced SO_2 emissions in Tennessee. These programs include: the Acid Rain Program under title IV of the CAA; the Cross-State Air Pollution Rule (CSAPR) SO_2 Group 1 Trading Program; Heavy-Duty Diesel Rule; Mercury and Air Toxic Standards Rule (MATS);[70] New Source Performance Standards (NSPS); Nonroad Diesel Rule; and EPA's Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements Rule.[71]

(b) EPA Analysis

EPA is proposing to find that the Federal control measures identified in section III.C.5.a of this notice have helped to reduce SO_2 emissions from various sources in the State. EPA's Acid Rain Program set a permanent cap on the total amount of SO_2 that may be emitted by EGUs in the contiguous United States.[72] CSAPR required significant reductions in SO_2 emissions from power plants in the eastern half of the United States.[73] MATS required reductions of emissions of heavy metals which, as a co-benefit, reduced emissions of SO_2, and establishes alternative numeric emission standards, including SO_2 (as an alternate to hydrochloric acid).[74] EPA's Nonroad Diesel Rule will reduce sulfur levels from about 3,000 parts per million (ppm) to 15 ppm when fully implemented.[75] EPA's Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (Heavy-Duty Diesel Rule) required refiners to start producing diesel fuel for use in highway vehicles with a sulfur content of no more than 15 ppm as of June 1, 2006.[76] NSPS for various source categories, including but not limited to Industrial-Commercial-Institutional Steam Generating Units;[77] Sulfuric Acid Plants;[78] Stationary Gas and Combustion Turbines;[79] Portland Cement Manufacturing;[80] Electric Utility Steam Generating Units (Boilers);[81] and Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011,[82] establish standards which reduce SO_2 emissions.

In addition to the rules listed in section III.C.5.a of this notice, EPA's Tier 3 Motor Vehicle Emission and Fuel Standards Rule[83] also reduces SO_2 emissions by establishing gasoline sulfur standards that reduce SO_2 emissions from certain types of mobile sources. EPA proposes that these Federal measures taken together have lowered and/or will continue to lower SO_2 emissions, and so are expected to continue to support EPA's proposed conclusion that SO_2 emissions from Tennessee will not contribute significantly to nonattainment of the 2010 1-hour SO_2 NAAQS in another state.

6. Conclusion

EPA proposes to determine that Tennessee's July 31, 2019, SIP submission, as supplemented on November 30, 2021, by the revised modeling for Eastman Chemical, satisfies the requirements of prong 1 of CAA section 110(a)(2)(D)(i)(I). EPA's evaluation of Prong 2 of the good neighbor provision—Interference with Maintenance of the NAAQS—follows and requires state plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state.

D. EPA's Prong 2 Evaluation: Interference With Maintenance of the NAAQS

1. State Submission

In its July 31, 2019, SIP submission, TDEC relied upon the information provided for prong 1 to demonstrate that emissions within Tennessee will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any neighboring state, including: attaining DVs for the

[70] *See* 77 FR 9304 (February 16, 2012).

[71] *https://www.epa.gov/regulations-emissions-vehicles-and-engines/final-rule-control-air-pollution-new-motor-vehicles-tier.*

[72] *See* 40 CFR parts 72 through 78.

[73] *See* 40 CFR part 97.610(a)(13). *See also* 76 FR 48208 (August 8, 2011).

[74] *See* 40 CFR parts 60 and 63. *See also* 77 FR 9304.

[75] *See* 40 CFR parts 9, 69, 80, 86, 89, 94, 1039, 1048, 1051, 1065, and 1068. *See also* 69 FR 38958 (June 29, 2004).

[76] *See* 40 CFR parts 69, 80, and 86. *See also* 66 FR 5002 (January 18, 2001).

[77] *See* 40 CFR part 60, subpart Da and 40 CFR part 63. *See also* 77 FR 9304.

[78] *See* 40 CFR part 60, subparts A, D, E, F, G and H. *See also* 36 FR 24876 (December 23, 1971).

[79] *See* 40 CFR part 60, subparts GG and KKKK. *See also* 71 FR 38482 (July 6, 2006) and 44 FR 52792 (September 10, 1979).

[80] *See* 40 CFR parts 60 and 63. *See also* 75 FR 54970 (September 9, 2010).

[81] *See* 40 CFR part 60, subpart Da and 40 CFR part 63. *See also* 77 FR 9304.

[82] *See* 40 CFR part 60, subpart LLL. *See also* 77 FR 49490 (August 16, 2012).

[83] *See* 40 CFR parts 79, 80, 85, 86, 600, 1036, 1037, 1039, 1042, 1048, 1054, 1065, and 1066. *See also* 79 FR 23414 (April 28, 2014).

2016–2018 period; SO_2 emission reductions trends from 2005–2014 from the NEI; DRR modeling for large SO_2 sources within 50 km of the State border; and supplemental modeling analyses out to 50 km for TVA-Gallatin and Eastman Chemical, which tend to show that the areas of other states closest to these sources are not exceeding the level of the 2010 1-hour SO_2 NAAQS. Also, TDEC indicates that there are no monitors located in the nine surrounding states, or Tennessee, that are violating the 2010 1-hour SO_2 NAAQS based on valid and complete data for the 2016–2018 monitoring period, which TDEC believes is evidence that Tennessee is not interfering with any maintenance efforts by neighboring states for this monitoring period. Finally, as discussed in sections III.C.4 and III.C.5, TDEC cited SIP-approved and Federal measures which address SO_2 emissions in Tennessee.

2. EPA Analysis

In *North Carolina* v. *EPA,* the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) explained that the regulating authority must give prong 2 of the CAA's interstate transport provision ''independent significance'' from prong 1 by evaluating the impact of upwind state emissions on downwind areas that, even if currently in attainment, are at risk of future nonattainment. *North Carolina* v. *EPA,* 531 F.3d 896, 910–11 (D.C. Cir. 2008). EPA interprets prong 2 to require an evaluation of the potential impact of a state's emissions on areas that are currently measuring clean data, but that may have issues maintaining that air quality. Therefore, in addition to the analysis presented by Tennessee, EPA has also reviewed additional information on SO_2 air quality and emission trends to evaluate the State's conclusion that Tennessee will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in downwind states. This evaluation builds on the analysis regarding significant contribution to nonattainment (prong 1), which looked at: (1) potential ambient impacts of SO_2 emissions from certain facilities in Tennessee on neighboring states based on available SO_2 air dispersion modeling results; (2) SO_2 emissions from Tennessee sources; (3) SO_2 ambient air quality for Tennessee and neighboring states, including the analysis of Eastman Chemical in Sullivan County, Tennessee; (4) SIP-approved Tennessee regulations that address SO_2 emissions; and (5) Federal regulations that reduce SO_2 emissions at Tennessee sources.

For the prong 2 analysis, EPA evaluated the data discussed in section III.C. of this notice for prong 1, with a specific focus on evaluating emissions trends in Tennessee, analyzing air quality data, and assessing how future sources of SO_2 are addressed through existing SIP-approved and Federal regulations. Based on 2019 emissions data, there is a continued trend of decreasing statewide SO_2 emissions within Tennessee. Additionally, there are no Tennessee sources emitting over 100 tpy of SO_2 in 2019 within 50 km of adjacent states' monitors with 2017–2019, 2018–2020, and 2019–2021 DVs that exceed the level of the 2010 1-hour SO_2 NAAQS. Given the historical trend of overall decreasing SO_2 emissions from sources within Tennessee, EPA proposes that evaluating whether these decreases in emissions can be maintained over time is a reasonable criterion to ensure that sources within Tennessee do not interfere with its neighboring states' ability to maintain the 2010 1-hour SO_2 NAAQS.

With respect to air quality data trends, the 2015–2017 through 2019–2021 DVs for the Blount County AQS SO_2 monitor and the 2012–2014 through 2019–2021 DVs for the Shelby County AQS SO_2 monitor in Tennessee within 50 km of another state's border are well below the level of the 2010 1-hour SO_2 NAAQS, as shown in Table 10 in section III.C.3.b. Additionally, three of the four Sullivan County monitors in Tennessee have a 2019–2021 DV below the level of the 2010 1-hour SO_2 NAAQS. The fourth monitor is located north of the facility and is 1.3 km directly upwind of an attaining monitor in the nonattainment area. Given the decreasing gradient measured in the 2019–2021 and 2020–2022 DVs between the monitors 47–163–6003 and 47–163–6001, which are only 1.3 km apart, it may be the case that SO_2 emissions from the source would not contribute to nonattainment in the neighboring states that are 8 km–50 km from Eastman Chemical. Tennessee's revised transport modeling for Eastman Chemical submitted on November 30, 2021, along with decreasing SO_2 emissions trends resulting from additional controls at Eastman Chemical, and the absence of any large neighboring SO_2 sources, support EPA's proposed finding that Eastman Chemical will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in Kentucky, North Carolina, and Virginia. Further, as shown in Tables 2 and 3, modeling results for sources in Tennessee within 50 km of the State border, including Eastman Chemical, are below the level of the 2010 1-hour SO_2 NAAQS in neighboring states and modeling results for sources in neighboring states within 50 km of Tennessee's border show maximum impacts are well below level of the 2010 1-hour SO_2 NAAQS. Thus, these modeling results, in addition to the lack of additional nearby large SO_2 sources in the neighboring states within 50 km of the Tennessee border, SIP-approved and Federal regulations that have reduced SO_2 emissions as discussed above, and annual DRR reporting for large sources, demonstrate that Tennessee's sources of SO_2 are not expected to interfere with maintenance of the 2010 1-hour SO_2 NAAQS in another state.

3. Conclusion

EPA proposes to determine that Tennessee's July 31, 2019, SIP submission, as supplemented by the revised modeling for Eastman Chemical on November 30, 2021, satisfies the requirements of prong 2 of CAA section 110(a)(2)(D)(i)(I). This determination is based on the following considerations: SO_2 emissions statewide from 2005 to 2014 for all source categories (except the ''Event'' category, which includes emissions from fires) and 2005 to 2017 for point sources in Tennessee have declined significantly; current Tennessee SIP-approved measures and Federal emissions control programs ensure control of SO_2 emissions from sources within Tennessee; current 2019–2021 DVs for the AQS SO_2 monitors in Blount and Shelby Counties Tennessee within 50 km of another state's border with valid DVs are well below the level of the 2010 1-hour SO_2 NAAQS; regarding the Sullivan County, Tennessee, monitors, three of the four Sullivan County monitors in Tennessee have a 2019–2021 DV below the level of the 2010 1-hour SO_2 NAAQS; regarding Eastman Chemical and the Sullivan County monitor which is located north of the facility and is 1.3 km directly upwind of an attaining monitor in the nonattainment area, so given that the physical properties of SO_2 result in relatively localized pollutant impacts, the decreasing gradient measured in the 2019–2021 DVs between the monitors over only 1.3 km indicates that it is unlikely that SO_2 emissions from the Eastman Chemical facility would contribute to nonattainment in the neighboring states that are 8 km–50 km from Eastman Chemical; Tennessee's revised transport modeling for Eastman Chemical submitted on November 30, 2021, along with decreasing SO_2 emissions trends resulting from additional controls at Eastman Chemical, and the absence of any large

neighboring SO_2 sources, support EPA's proposed finding that Eastman Chemical will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in Kentucky, North Carolina, and Virginia; and modeling for DRR sources within 50 km of Tennessee's border both within the State and located in other states demonstrate that Tennessee's largest point sources of SO_2 are not expected to interfere with maintenance of the 2010 1-hour SO_2 NAAQS in another state. Based on these factors described above, in addition to the analysis provided by Tennessee in its SIP submission and supplemented on November 30, 2021, with revised modeling for Eastman Chemical, and EPA's prong 1 analysis of the factors described in section III.C and III.D of this notice, EPA proposes to find that emission sources within Tennessee will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any other state.

IV. Proposed Action

Based on the above analysis, EPA is proposing to approve Tennessee's July 31, 2019, SIP submission. This determination is based on EPA's independent evaluation, including as supplemented by the revised modeling for Eastman Chemical, as demonstrating that emissions from Tennessee will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO_2 NAAQS in another state.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

TDEC did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2023–13470 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2022–0879; FRL–8899–01–OAR]

RIN 2060–AV40

National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE), the New Source Performance Standards (NSPS) for Stationary Compression Ignition (CI) Internal Combustion Engines, and the NSPS for Stationary Spark Ignition (SI) Internal Combustion Engines, to add electronic reporting provisions. The addition of electronic reporting provisions will provide for simplified reporting by sources and enhance availability of data on sources to the EPA and the public. In addition, a small number of clarifications and corrections to these rules are being proposed to correct inadvertent and other minor errors in the Code of Federal Regulations (CFR), particularly related to tables. Finally, information is being

solicited on the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region.

DATES:

Comments. Comments must be received on or before August 25, 2023. Comments on the information collection provisions submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) are best assured of consideration by OMB if OMB receives a copy of your comments on or before July 26, 2023.

Public hearing: If anyone contacts us requesting a public hearing on or before July 3, 2023, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2022–0879, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2022–0879 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2022–0879.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2022–0879, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Christopher Werner, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5133; and email address: *werner.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. To request a virtual public hearing, contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* If requested, the hearing will be held via virtual platform on July 11, 2023. The hearing will convene at 9 a.m. Eastern Time (ET) and will conclude at 3 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/stationary-engines/.*

The EPA will begin pre-registering speakers for the hearing no later than 1 business day after a hearing request is received. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-engines/* or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* The last day to pre-register to speak at the hearing will be July 10, 2023. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: *https://www.epa.gov/stationary-engines/.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to submit a copy of their oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-engines/.* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by July 3, 2023. The EPA may not be able to arrange accommodations without advance notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2022–0879. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy.

Written Comments. Submit your comments, identified by Docket ID No. EPA–HQ–OAR- 2022–0879, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at *https://www.regulations.gov* any information you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed in the *Submitting CBI* section of this document.

Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*e.g.,* on the Web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI or multimedia submissions; and general guidance on making effective comments.

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email

address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in the *Written Comments* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2022–0879. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action include industries using stationary engines, including both compression and spark ignition internal combustion engines, such as: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security. North American Industry Classification System Codes of potentially regulated industries may include 2211, 622110, 48621, 211111, 211112, and 92811. This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the proposed action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the rules. If you have any questions regarding the applicability of any aspect of this action, please contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet at *https://www.epa.gov/stationary-engines/.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

Memoranda showing the rule edits that would be necessary to incorporate the changes to 40 CFR part 60, subpart IIII, 40 CFR part 60, subpart JJJJ, and 40 CFR part 63, subpart ZZZZ, proposed in this action are available in the docket (Docket ID No. EPA–HQ–OAR–2022–0879). Following signature by the EPA Administrator, the EPA also will post a copy of this document to *https://www.epa.gov/stationary-engines/.*

II. Background

Stationary engines are used in a variety of applications from generating electricity to powering pumps and compressors in power and manufacturing plants. They are also used in the event of an emergency such as fire or flood. The key pollutants the EPA regulates from these sources include formaldehyde, acetaldehyde, acrolein, methanol, polycyclic aromatic hydrocarbon (PAH), volatile organic compounds (VOC), carbon monoxide (CO), nitrogen oxides (NO_X), particulate matter (PM), sulfur dioxide (SO_2), and hydrocarbons (HC).

A compression ignition (CI) engine, or diesel engine, is a type of engine in which the fuel injected into the combustion chamber is ignited by a heat resulting from the compression of gases inside the cylinder. A spark ignition (SI) engine is a type of engine in which the fuel-air mixture in the combustion

chamber is ignited by a spark from a spark plug.

The NESHAP for RICE is in 40 CFR 63, subpart ZZZZ, which was first promulgated in 2004. The NSPS for Stationary CI Internal Combustion Engines is in 40 CFR part 60, subpart IIII, which was first promulgated in 2006. The NSPS for Stationary SI Internal Combustion Engines is in 40 CFR part 60, subpart JJJJ, which was first promulgated in 2008. All have been amended several times since promulgation.

III. What actions are we proposing?

A. Summary of Actions Being Proposed

In this action, we are proposing the following pursuant to Clean Air Act (CAA) sections 111 and 112: addition of requirements for electronic reporting to 40 CFR part 60, subpart IIII, 40 CFR part 60, subpart JJJJ, and 40 CFR part 63, subpart ZZZZ; clarifications to table 4 in subpart IIII due to incorrect display in the CFR; the correction of inadvertent errors in subpart ZZZZ, specifically in 40 CFR 63.6625(j) and its need to reference additional line items in table 2d; and clarifications to the oil change requirements for engines subject to them as referenced in subpart ZZZZ, tables 2c and 2d.

B. Electronic Reporting

The EPA is proposing that owners and operators of stationary engines subject to NSPS subparts IIII or JJJJ, or NESHAP subpart ZZZZ, submit electronic copies of certain initial notifications of compliance, performance test reports, Notification of Compliance Status (NOCS), and annual and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action. The proposed rule requires that the initial notification of compliance be submitted through CEDRI. The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [1] at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website, and other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. The proposed rule requires that NOCS for NESHAP subpart ZZZZ be submitted as a PDF upload in CEDRI.

For annual and semiannual compliance reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed template(s) for these reports is included in the docket for this action.[2] The EPA specifically requests comment on the content, layout, and overall design of the template(s).

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. These circumstances are: (1) Outages of the EPA's CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports and (2) *force majeure* events, which are defined as events that will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically. Examples of *force majeure* events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated State, local, Tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [3] to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy [4] developed in response to the White House's Digital Government Strategy.[5] For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* referenced in this section III. B.

As part of the electronic reporting effort, reporting requirements in subpart ZZZZ were clarified and adjusted to be consistent for all engine types as well as to provide specificity in units of measure and to provide consistency between the NSPS and the NESHAP. For example, engine site rating in HP, date construction commenced, type of engine, and latitude and longitude of the engine location were not previously required to be reported by the NESHAP, but had been required by the NSPS, so are now being proposed to be added to subpart ZZZZ for consistency. With these changes, the regulatory text at 40 CFR 63.6650 now includes all of the applicable data elements required by 40 CFR 63.10(e)(3), and the general provisions applicability table is revised to reflect that 40 CFR 63.10(e)(3) is no longer applicable.

C. Clarifications to Table 4 in Subpart IIII

As it currently appears in the CFR, ''Table 4 to Subpart IIII of Part 60—Emission Standards for Stationary Fire Pump Engines'' has proven confusing to the public because it shows blank cells

[1] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[2] See *60.4214d3_annual_report_bulk_upload_template_ICRDraft.xlsx, 60.4245e3_annual_report_bulk_upload_template_ICRDraft.xlsx, and § 63.6650_h_and_i Compliance Report Template_ICRDraft.xlsm,* available at Docket ID. No. EPA–HQ–OAR–2022–0879.

[3] EPA's Final Plan for Periodic Retrospective Reviews, August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[4] E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[5] Digital Government: Building a 21st Century Platform to Better Serve the American People, May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

for the CO standard for certain engine model years. This is not the correct interpretation of the table, as the same CO standard applies for all model years. The table was not intended to be displayed in this manner and simply reflects a mismatch between what was submitted by the EPA and what was able to be shown in the CFR. Therefore, the clarified table is set out as table 1 in this paragraph. The EPA invites comment on whether any other aspect of this table is confusing or incorrect; however, we are not soliciting comment on the standards themselves.

TABLE 1—CLARIFIED VERSION OF ''TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES''

Maximum engine power	Model year(s)	NMHC + NO_X	CO	PM
KW<8 (HP<11)	2010 and earlier	10.5 (7.8)	8.0 (6.0)	1.0 (0.75)
KW<8 (HP<11)	2011 +	7.5 (5.6)	8.0 (6.0)	0.40 (0.30)
8≤KW<19 (11≤HP<25)	2010 and earlier	9.5 (7.1)	6.6 (4.9)	0.80 (0.60)
8≤KW<19 (11≤HP<25)	2011 +	7.5 (5.6)	6.6 (4.9)	0.40 (0.30)
19≤KW<37 (25≤HP<50)	2010 and earlier	9.5 (7.1)	5.5 (4.1)	0.80 (0.60)
19≤KW<37 (25≤HP<50)	2011 +	7.5 (5.6)	5.5 (4.1)	0.30 (0.22)
37≤KW<56 (50≤HP<75)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
37≤KW<56 (50≤HP<75)	2011 +[1]	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
56≤KW<75 (75≤HP<100)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
56≤KW<75 (75≤HP<100)	2011 +[1]	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
75≤KW<130 (100≤HP<175)	2009 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
75≤KW<130 (100≤HP<175)	2010 +[2]	4.0 (3.0)	5.0 (3.7)	0.30 (0.22)
130≤KW<225 (175≤HP<300)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
130≤KW<225 (175≤HP<300)	2009 +[3]	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
225≤KW<450 (300≤HP<600)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
225≤KW<450 (300≤HP<600)	2009 +[3]	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
450≤KW≤560 (600≤HP≤750)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
450≤KW≤560 (600≤HP≤750)	2009 +	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
KW>560 (HP>750)	2007 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
KW>560 (HP>750)	2008 +	6.4 (4.8)	3.5 (2.6)	0.20 (0.15)

[1] For model years 2011–2013, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 revolutions per minute (rpm) may comply with the emission limitations for 2010 model year engines.

[2] For model years 2010–2012, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2009 model year engines.

[3] In model years 2009–2011, manufacturers of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2008 model year engines.

D. Correction of Inadvertent Errors in Subpart ZZZZ

As it currently appears in the CFR, table 2d in 40 CFR part 63, subpart ZZZZ correctly indicates multiple SI engine types for which oil change requirements apply. Specifically, table 2d's items numbers 5, 6, 7, 8, 10, 11, and 13 all indicate SI engine types for which these requirements apply. When this table was last revised,[6] corresponding changes to § 63.6625(j) were inadvertently not made. Therefore, the current version of § 63.6625(j), which specifies that an oil analysis program can be used in order to extend the oil change requirements, refers to an incorrect set of table 2d's item numbers. Therefore, the EPA is proposing to amend § 63.6625(j) to include the correct list of table 2d's item numbers, specifically 5, 6, 7, 8, 10, 11, and 13, that indicate SI engine types for which oil change requirements apply.

E. Clarifications to the Oil Change Requirement in Subpart ZZZZ

As indicated in tables 2c and 2d of 40 CFR part 63, subpart ZZZZ, several types of CI and SI engines are subject to oil change requirements. The number of hours of operation stated in the requirement vary by engine type; however in each instance, the requirement is phrased as: ''Change oil and filter every X,XXX hours of operation or annually, whichever comes first.''

The EPA receives frequent inquiries from regulated entities regarding these provisions, most often revolving around the meaning of the term ''annually.'' For example, regulated entities sometimes inquire whether ''annually'' means ''every calendar year.'' In such a case, the inquiry amounts to essentially whether an oil change could hypothetically be conducted on January 1, 2019, and the next oil change could then be conducted on December 31, 2020, since 2020 is the calendar year that falls immediately after 2019 (this assumes of course that X,XXX hours of operation has not occurred). In such a scenario, however, these 2 hypothetical oil changes will have actually occurred almost exactly 2 years apart, minus a day.

This is never what the EPA intended with the terminology of ''annually'' in tables 2c and 2d of subpart ZZZZ. It is important for oil changes to occur as close as possible to 12 months apart to minimize emissions, absent use of the oil analysis programs afforded by 40 CFR 63.6625(i) and (j). The same language of ''annually'' also appears in these tables related to items such as spark plug, air cleaner, and hose and belt inspections, and similar concerns about emissions and engine reliability apply. Therefore, the EPA is proposing to replace each instance of the term ''annually'' in tables 2c and 2d with the term ''every 12 months.'' [7]

In addition, it is worthwhile to note that the EPA also occasionally receives questions as to whether regulated entities that adopt the oil analysis program in 40 CFR 63.6625(i) or (j) must change the oil filter on a more frequent

[6] 78 FR 6709 (January 30, 2013).

[7] Additionally, the same language of ''annually'' also in appears in a separate location in subpart ZZZZ, namely in the subsection on management practices applicable to existing stationary non-emergency CI RICE with a site rating of more than 300 HP located on an offshore vessel that is an area source of HAP and is a nonroad vehicle that is an Outer Continental Shelf (OCS) source as defined in 40 CFR 55.2. Similar concerns apply to the engines affected by this subsection (40 CFR 63.6603), so we are likewise proposing to replace each instance of the term ''annually'' with the term ''every 12 months'' here.

basis than the oil even when the oil analysis program indicates condemning limits have not yet been reached. We wish to clarify that regulated entities that adopt the oil analysis program must change the oil filter for these generators when changing the oil and are not required to change the filter prior to changing the oil. The intention of the EPA's regulations is that the oil filter should always be changed whenever the engine oil is changed, and we are proposing changes to the regulatory text to this effect. Also please note that nothing in the EPA's regulations prevents the owner and operator from changing the oil and/or oil filter sooner than condemning limits have been reached, if desired.

F. Compliance Dates

Our experience with other industries that are required to convert reporting mechanisms, install necessary hardware and software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters shows that a time period of a minimum of 90 days, but more typically 180 days, is generally necessary to successfully complete these changes. Due to the diverse nature of the stationary engine sector, the EPA is proposing to allow 180 days from the date of the final rule, or 1 year from date that the report template is made available on CEDRI, whichever is later, for compliance with the proposed electronic reporting requirements.

For all other proposed requirements, because they are non-substantive edits simply to clarify existing requirements, the EPA is proposing to make them effective immediately upon promulgation of the final rule.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

As mentioned previously, categories and entities potentially regulated by this action include industries using stationary RICE, including both compression and spark ignition internal combustion engines, such as: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security (North American Industry Classification System Codes 2211, 622110, 48621, 211111, 211112, and 92811). This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the proposed action for the source category listed.

B. What are the air quality impacts?

No air quality impacts are expected to result from this rulemaking.

C. What are the cost impacts?

The EPA estimated costs for this proposed action are based on the results of the analysis for information collection activities, as presented in the Paperwork Reduction Act (PRA) section and accompanying Information Collection Request (ICR) documents in the docket.

When assessed over the first 3 years of compliance (2024 to 2026), the incremental costs for both NSPS (subpart IIII and subpart JJJJ) are estimated to be negative, *i.e.,* reflect a cost savings, for all 3 years. For the NESHAP (subpart ZZZZ), the incremental cost is estimated to have costs in 2024 followed by cost savings in 2025 and 2026. When viewed on an overall basis (*i.e.,* all subparts considered), undiscounted costs for the proposed rule, in 2021$, are $18.0 million in 2024, ($38.0 million) in 2025, and ($38.2 million) in 2026, with parentheses indicating negative values, *i.e.,* cost savings. Although the EPA also anticipates that the proposed rule will continue to result in cost savings in years beyond 2026 for all subparts, we have not estimated the magnitude or duration of these cost savings. This is in line with electronic reporting reducing burden on regulated entities and the EPA by eliminating paper-based processes and providing data quickly and accurately.

More details on cost impact analyses for the proposed rule can be found in the ''*What are the economic impacts?*'' section of this preamble as well as in Section 2 of the memorandum, *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments,* which is also available in the docket for this action.

D. What are the economic impacts?

The EPA conducted economic impact analyses for the proposed rule, as detailed in the memorandum, *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments,* which is available in the docket for this action.

Costs were estimated for the first 3 years following this action. Correspondingly, a 3-year period from 2024 to 2026 was selected as the best measure of the economic impacts of this action. This allowed for a reasonable and consistent timeframe over which to examine impacts of this action from a present value (PV) perspective. The PV in 2021 dollars is a cost saving of approximately $51.8 million using a 3 percent discount rate, and a cost saving of approximately $44.5 million using a 7 percent discount rate.[8] The equivalent annualized value (EAV), in 2021 dollars, is a cost saving of approximately $18.3 million using a discount rate of 3 percent, and a cost saving of approximately $16.9 million using a discount rate of 7 percent.

The amendments to subparts IIII and JJJJ have estimated cost savings for respondents in each year. We conducted an analysis assessing the impacts of the costs associated with the amendments to subpart ZZZZ. As shown in the supporting statement to subpart ZZZZ, the amendments to ZZZZ have estimated costs of $32 per respondent for the first year and cost savings thereafter. As described the economic impact analysis, for the first year such costs are less than 0.1 percent of the average affected entity's payroll, and we conclude that it is reasonable to assume that such costs represent less than 0.1 percent of sales for the average affected entity.[9]

Given the results of the analysis, these economic impacts are relatively low for affected industries and entities impacted by this proposed rule, and there will not be substantial impacts on the markets for affected products. The costs of the proposed rule are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

[8] Present value and equivalent annualized value calculations can be found in *RICE proposal—economic analysis.xls,* a spreadsheet that includes the basis for the economic impacts that was generated by the EPA for this analysis report. This spreadsheet can be found in the docket for this rulemaking.

[9] The memorandum titled *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendment* is available in the docket for this action.

E. What are the benefits?

The EPA is not making changes to the emission limits and estimates that the proposed requirements for electronic reporting are not economically significant. Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were projected, we are not estimating any benefits from reducing emissions.

V. Request for Comments

We solicit comments on this proposed action. In addition to general comments on this proposed action, we are also interested in any comments on the reporting template found in the docket for this action.

The EPA also seeks comments on the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region. These provisions appear in the NESHAP [10] and both NSPS [11] and are often referred to as the ''50-hour provisions.'' As background, both the NESHAP and NSPS have separate requirements for emergency engines and, in many cases, subject them to less stringent requirements compared to non-emergency engines. In addition, the rules also limit the allowable hours of operation for emergency engines in non-emergency situations.

In 2013, the EPA finalized a rule that made changes to the stationary engine NESHAP and NSPS regarding limitations on the hours of operation of emergency engines (78 FR 6674; January 30, 2013). Prior to the 2013 amendments, emergency engines were restricted to 100 hours of operation per year for maintenance and testing, of which 15 could be used for emergency demand response (*i.e.,* to help stabilize the electric grid during rare ''near-blackout'' situations). These provisions were often referred to as the ''emergency demand response'' or ''100-hour'' provisions. The 2013 rule continued to restrict emergency engines to a collective 100 hours of operation per year for maintenance, testing, or emergency demand response but removed the 15-hour limit for emergency demand response. The 2013 rule specified that emergency engines can operate for up to 50 hours per year [12] in non-emergency situations (counted as part of the 100 hours discussed above), and that the 50 hours can be used to supply power as part of a financial arrangement with another entity (often referred to as the local system reliability or ''50-hour'' provisions) if the following conditions are met: the engine is dispatched by the local balancing authority or local transmission and distribution system operator; the dispatch is intended to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region; the dispatch follows reliability, emergency operation, or similar protocols that follow specific North American Electric Reliability Corporation (NERC), regional, State, public utility commission or local standards or guidelines; the power is provided only to the facility itself, or to support the local transmission and distribution system; and the owner or operator identifies and records the entity that dispatches the engine and the specific NERC, regional, State, public utility commission or local standards or guidelines that are being followed for dispatching the engine (the local balancing authority or local transmission and distribution system operator may keep these records on behalf of the engine owner or operator).

Petitions for review of the final 2013 rule were filed. The EPA granted reconsideration of 50-hour provisions and the litigation over those provisions was severed from other challenges and put in abeyance. In 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the court) vacated and remanded the 100-hour provisions related to emergency demand response in *Delaware Dep't of Nat. Res. & Env't Control* v. *EPA.*[13] The court found that the EPA inadequately responded to comments, relied on inadequate evidence to justify the 100-hour provision, failed to consider limiting the provision to areas not served by organized capacity markets, and failed to obtain the views of the Federal Energy Regulatory Commission (FERC) or NERC on the reliability considerations upon which the EPA's exemption was based.[14]

Based on the adverse court decision on the 100-hour provisions, the EPA asked for and was granted a voluntary remand in the case challenging the 50-hour provisions. *Conservation Law Foundation* v. *EPA,* No. 13–1233, Doc. No. 1574665 (D.C. Cir. Sept. 23, 2015) (*CLF*). Our motion for voluntary remand [15] noted that although ''EPA intended the 50-hour provision to address a different need than the 100-hour provision—that of local electric reliability and distribution rather than grid reliability at the bulk power system level [and] EPA therefore required different conditions in order for the provision to be triggered,'' petitioners challenged the 50-hour rule for very similar reasons, namely that the EPA did not sufficiently respond to comments regarding the 50-hour provision's effects on the energy market and failed to consider alternatives for limiting the provision to areas most in need of the provision (*i.e.,* rural areas), rather than applying nationwide. *Id.* Doc. No. 1560303 (June 30, 2015).

Petitioners in *CLF* filed their briefs before the case was remanded, and the briefs included the following record-based arguments: the EPA's decision to apply the 50-hour provision on a national basis was arbitrary, capricious, and inadequately explained; the EPA's assertion that the 50-hour provision was needed for non-rural, more densely populated areas has no support in the record and is inconsistent with the EPA's stated justification for the provision; the EPA erred in refusing to apply the 50-hour provision solely in areas where it is needed and failed to consider suggestions for narrowly tailoring the provisions to such areas; and the EPA's analysis of the cost effectiveness of pollution controls was in error. *Id.* Doc. No. 1543351 (March 19, 2015). Delaware made additional arguments concerning the EPA's authority both to revise the NSPS provisions and to promulgate the 50-hour provision under CAA section 112 (with respect to NESHAP). *Id.* Doc. No. 1543305 (March 19, 2015). The EPA indicated in recent status reports to the court that we intend to undertake a proceeding in the near future to revoke, revise, or justify the provision as appropriate.

We have been engaged in evaluating the need for this provision, including by assessing how often, and under what circumstances, the 50-hour provision is used by stakeholders.[16] We also have

[10] 40 CFR 63.6640(f)(4)(ii).

[11] 40 CFR 60.4211(f)(3)(i), 40 CFR 60.4243(d)(3)(i).

[12] *Note:* For the NESHAP, the 50-hour provision only applies to engines at area sources.

[13] 785 F.3d 1.

[14] 785 F.3d 1, 14 (D.C. Cir. 2015). The EPA recently removed the vacated 100-hour provisions from the CFR via a ministerial action. 87 FR 48603 (August 10, 2022).

[15] These court filings are also available at the EPA's website at: *https://www.epa.gov/stationary-engines/technical-documents-neshap-reciprocating-internal-combustion-engines-0.*

[16] This undertaking has involved review by the EPA of reports submitted electronically to the EPA,

Continued

been considering whether there are potential revisions that would narrow the provision to ensure that it is limited to remote rural areas (if those are the only areas where it is needed) and to reduce uncertainty concerning the meaning of ''local balancing authority'' and ''local transmission and distribution system operator,'' as well as how it can be determined that ''[t]he dispatch is intended to mitigate local transmission. . .''. Based on reported information, in the last few years, there appears to have been very little need for engines to operate for the purpose specified in the 50-hour provision. Stakeholders have suggested that there may have been usage of the provision that was not reported. However, the EPA has limited information to indicate that is the case. On the contrary, operation for the purpose specified in the 50-hour provision appears to be infrequent. In light of this limited information on current use and the court's vacatur of the 100-hour provision, it may be appropriate to eliminate the 50-hour provision, rather than seeking to revise it to tailor the provision more carefully to be consistent with its original rationale and the court's decision on the 100-hour provision. Therefore, in this proposal, we are also soliciting comment and information on the 50-hour provision as we consider whether to propose removing these provisions from the CFR or whether we should propose changes to the provision to be consistent with its original rationale and the court's decision on the 100-hour provision. In particular, we seek comment on what, if any, revisions could be made that would adequately respond to the issues raised in the record to date (*e.g.,* with respect to narrowing the scope of the exemption) in a future rulemaking. In addition, we solicit comment on whether, if the EPA determines on remand, in light of the vacatur of the 100-hour provision and issues raised in the pending litigation, that the current 50-hour provision was improperly promulgated, the removal (or modification) of the 50-hour provisions from the NSPS should be effective for sources currently subject to the NSPS; or whether the EPA should treat the removal or modification of the 50-hour provision as a modification of the standard that only applies prospectively to sources that are new, modified, or reconstructed after the EPA proposes to remove the 50-hour provisions, within the meaning of CAA section 111(a)(2).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) documents that the EPA prepared have been assigned EPA ICR numbers 2196.08, 2227.07, and 1975.12 for subparts IIII, JJJJ, and ZZZZ, respectively. You can find copies of the ICRs in the docket for this rulemaking, and they are briefly summarized here.

The proposed amendments mainly add electronic reporting provisions to the rules. In general, the changes do not result in regulated entities needing to submit anything additional electronically that is not currently submitted via paper copies, and this is therefore expected to lessen the recordkeeping and reporting burden. The information is collected to assure compliance with 40 CFR part 60, subparts IIII and JJJJ and 40 CFR part 63, subpart ZZZZ.

Respondents/affected entities: Owners and operators of stationary reciprocating internal combustion engines at either a major or area source of HAP emissions (ZZZZ); existing and new manufacturers, owners, and operators of stationary compression ignition (CI) internal combustion engines (IIII); existing and new manufacturers, owners, and operators of stationary compression ignition (CI) internal combustion engines (JJJJ).

Respondents' obligation to respond: Mandatory.

Estimated number of respondents: 915,781 (ZZZZ); 207,360 (IIII); 19,835 (JJJJ).

Frequency of response: Varies by rule and by type of response.

Total estimated burden: (61,799) (ZZZZ); (95,928) (IIII); (1,144) (JJJJ) hours (per year). Burden is defined at 5 CFR 1320.3(b). Note: parentheses indicate a reduction in burden, *i.e.,* a reduced number of hours as a result of the proposed addition of electronic reporting to the rules.

Total estimated cost: ($7,581,151) (ZZZZ); ($11,688,145) (IIII); ($140,379) (JJJJ) (per year), includes $0 annualized capital or operation & maintenance costs. Note: parentheses indicate a reduction in cost as a result of the proposed addition of electronic reporting to the rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rulemaking. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than July 26, 2023. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses, small governmental jurisdictions and small non-profits across a range of sectors, including but not limited to: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security. Due to a lack of sufficient data about the population of affected engines and facilities, the Agency is unable to identify the specific entities affected by this action, and therefore unable to determine the number of affected entities that are small entities. Although we cannot identify a list of specific entities, we expect that this proposed action will affect small entities.

The proposed amendments to subparts IIII and JJJJ have estimated cost savings for respondents in each year.

because use of the 50-hour provision has always been subject to an electronic reporting requirement. An annual report under either subpart IIII, JJJJ, or ZZZZ must be submitted electronically by any entity making use of the 50-hour provision using the subpart-specific reporting form to CEDRI. The public can access records of previously submitted reports using WebFIRE (*https://cfpub.epa.gov/webfire/reports/esearch.cfm*).

We conducted analysis assessing the impacts of the costs associated with the proposed amendments to subpart ZZZZ. As shown in the supporting statement to subpart ZZZZ, this subpart has estimated costs of $32 per respondent in 1 year, and cost savings in following years. We estimate that this compliance cost of $32 per respondent is below a 0.1 percent impact relative to payroll or sales for nearly all affected small entities, and that there is a large margin before the impacts would approach a 1 percent impact for a substantial number of small entities. Details of this analysis are presented in the memorandum titled *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments,* which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action will reduce reporting costs for all sources, although we did estimate some initial costs (well under $100 million in the aggregate) for some sources.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. While some Tribes could be impacted by this amendment, this rulemaking would reduce the compliance costs for owners and operators of stationary engines. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629; February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. This is because this action involves the addition of electronic reporting and therefore is not expected to change emissions.

Michael S. Regan,

Administrator.

[FR Doc. 2023–13445 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60 and 63

[EPA–HQ–OAR–2022–0730; FRL–9327–03–OAR]

RIN 2060–AU71

New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On April 25, 2023, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry.'' The EPA is extending the comment period on this proposed rule that currently closes on June 26, 2023, by 11 days. The comment period will now remain open until July 7, 2023, to allow additional time for stakeholders to review and comment on the proposal.

DATES: The public comment period for the proposed rule published in the **Federal Register** (FR) on April 25, 2023 (88 FR 25080), originally ending June 26, 2023, is being extended by 11 days. Written comments must now be received on or before July 7, 2023.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–HQ–OAR–2022–0730, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2022–0730 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2022–0730.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2022–0730, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions. All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact Njeri Moeller, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1380; and email address: *moeller.njeri@epa.gov.*

SUPPLEMENTARY INFORMATION:

Rationale. On April 25, 2023, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry.'' 88 FR 25080. The comment period on this proposed rule currently closes on June 26, 2023. The EPA has received numerous requests for additional time to review and comment on this proposed rule. The EPA has decided to extend the period by 11 days. The public comment period will now end on July 7, 2023. This notice supersedes any prior responses to requests to extend the comment period for this rulemaking.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2022–0730. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov*.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2022–0730. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov/* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in instructions above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2022–0730. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Penny Lassiter,

Director, Sector Policies and Programs Division.

[FR Doc. 2023–13484 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 88, No. 121
Monday, June 26, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of Approved International Trade Administration Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA), is announcing one upcoming trade mission that will be recruited, organized, and implemented by ITA. This mission is: U.S. Aerospace & Defense Trade Mission to Romania & Poland, November 12–17, 2023. A summary of the mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission website: *https://www.trade.gov/trade-missions.* For each mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*https://www.trade.gov/trade-missions-schedule*) and other internet websites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

FOR FURTHER INFORMATION CONTACT: Jeffrey Odum, Events Management Task Force, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–6397 or email *Jeffrey.Odum@trade.gov.*

SUPPLEMENTARY INFORMATION:

The Following Conditions for Participation Will Be Used for the Mission

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation that is adequate to allow the Department of Commerce to evaluate their application. If the Department of Commerce receives an incomplete application, the Department of Commerce may either: reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a particular mission by the recruitment deadline, the mission may be cancelled.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

A trade association/organization applicant must certify the above for every company it seeks to represent on the mission. In addition, each applicant must:

- Certify that the products and services that it wishes to market through the mission would comply with U.S. export controls and regulations;
- Certify that it has identified any matter pending before any bureau or office in the Department of Commerce;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

The Following Selection Criteria Will Be Used for the Mission

Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination countries. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) products or services to these markets;
- The applicant's (or in the case of a trade association/organization, represented firm's or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and
- Consistency of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) goals and objectives with the stated scope of the mission.

Balance of company size and location may also be considered during the review process. Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions. The Department of Commerce will evaluate applications and inform applicants of selection decisions on a rolling basis until the maximum number of participants has been selected.

Trade Mission Participation Fees

If and when an applicant is selected to participate in a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee below is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

Participants selected for a trade mission will be expected to pay for the cost of personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. In the event that a mission is cancelled, no personal expenses paid in anticipation of a mission will be reimbursed. However, participation fees for a cancelled mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

If a visa is required to travel on a particular mission, applying for and obtaining such a visa will be the responsibility of the mission participant. Government fees and processing expenses to obtain such a visa are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas. Trade mission members participate in trade missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available at *https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/.* Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

Definition of Small- and Medium-Sized Enterprise

For purposes of assessing participation fees, an applicant is a small or medium-sized enterprise (SME) if it qualifies as a ''small business'' under the Small Business Administration's (SBA) size standards (*https://www.sba.gov/document/support--table-size-standards*), which vary by North American Industry Classification System (NAICS) Code. The SBA Size Standards Tool (*https://www.sba.gov/size-standards*) can help you determine the qualifications that apply to your company.

Important Note About the Covid–19 Pandemic

Travel and in-person activities are contingent upon the safety and health conditions in the United States and the mission countries. Should safety or health conditions not be appropriate for travel and/or in-person activities, the Department will consider postponing the event or offering a virtual program in lieu of an in-person agenda. In the event of a postponement, the Department will notify the public and applicants previously selected to participate in this mission will need to confirm their availability but need not reapply. Should the decision be made to organize a virtual program, the Department will adjust fees, accordingly, prepare an agenda for virtual activities, and notify the previously selected applicants with the option to opt-in to the new virtual program.

Mission List: (additional information about trade missions can be found at *https://www.trade.gov/trade-missions*).

U.S. Aerospace & Defense Trade Mission to Romania & Poland, November 12–17, 2023

Summary

The International Trade Administration (ITA), the trade promotion arm of the United States Department of Commerce, is organizing a U.S. Aerospace & Defense Trade Mission to Romania & Poland, November 12–17, 2023. The objective for this mission is to advance U.S. national interests by giving U.S. companies an opportunity to provide aerospace and defense equipment, technology, and services to Romania and Poland, both impacted by the Russian invasion into Ukraine. Participating U.S. firms will gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports and services in the aerospace and defense sectors.

The mission will introduce U.S. firms to aerospace and defense stakeholders in the region and assist U.S. companies in finding foreign business partners to export their products and services to Romania and Poland. The mission will include customized one-on-one business appointments with pre-screened potential buyers, agents, distributors, and joint venture partners. It will also include meetings with government officials and industry leaders, as well as networking events. In Romania, companies will also have an opportunity to participate in site visits to Aerospace/Defense Production Facilities or an R&D Center. For companies new to the market, this will be an opportunity to make initial contacts and learn more about the large defense market in Central and Southeast Europe.

The mission will target up to fifteen (minimum 10) U.S. companies or trade associations that provide products and services related to a broad range of best prospective Aerospace & Defense subsectors in Romania & Poland.

Proposed Timetable

*** Note:** The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

Sunday, November 12, 2023	▪ Arrive in Bucharest. ▪ Welcome No-Host Dinner.
Monday, November 13, 2023	▪ U.S. Embassy Briefing. ▪ Morning Conference ''Romanian Defense Strategy and Business Opportunities'' with Romanian Government Presentations. ▪ Networking Lunch. ▪ Trade Mission Meetings-Business to Government (B2G) Meetings. ▪ Evening Reception.
Tuesday November 14, 2023	▪ AM—Site Visits to Aerospace/Defense Production Facilities or R&D Center and B2B Meetings. ▪ Networking Lunch. ▪ PM—Trade Mission Meetings–B2B. ▪ Closing Reception.
Wednesday November 15, 2023	▪ AM—Travel to Warsaw, Poland. ▪ U.S. Embassy Briefing. ▪ Evening Reception.

Thursday November 16, 2023	▪ Full Day Matchmaking Meetings in Poland.
Friday November 17, 2023	▪ Half Day Matchmaking Meetings in Poland. ▪ Program Concludes.

Participation Requirements

All parties interested in participating in the trade mission must submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of ten and maximum of fifteen companies or trade associations will be selected to participate in the mission from the applicant pool.

Fees and Expenses

After a firm or trade association has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for this trade mission will be $4,530 for small or medium-sized enterprises (SME); and $6,260 for large firms or trade associations.[1] The fee for each additional firm representative (large firm or SME/trade organization) is $1,000 for two stops.

A firm or trade association/organization has the option to apply to participate in only one market. The participation fee for the Romania portion of the Trade Mission will be $2,910 for small or medium-sized enterprises (SMEs); and $3,730 for large firms or trade associations/organizations. The fee for each additional firm representative (large firm or SME/trade organization) is $1,000. The participation fee for the Poland portion of the Trade Mission will be $1,620 for small or medium-sized enterprises (SMEs); and $2,530 for large firms or trade associations/organizations. The fee for each additional firm representative (large firm or SME/trade organization) is $1,000.

Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged for additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Department of Commerce trade mission calendar (*http://export.gov/trademissions*), other internet websites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than September 29th, 2023. The Department of Commerce will evaluate applications and inform applicants of selection decisions on a rolling basis until the maximum number of participants has been selected. Applications received after September 29th, 2023, will be considered only if space and scheduling constraints permit.

Contacts

Diane Mooney—Project Manager, Director, U.S. Commercial Service, Seattle, Office: 206–553–7251, Email: *Diane.Mooney@trade.gov*

Jason Sproule, Senior International Trade Specialist, U.S. Commercial Service, Los Angeles, Office: 949–283–0690, Email: *Jason.Sproule@trade.gov*

Frantz Eyssallenne—Recruitment Lead, International Trade Specialist, U.S. Commercial Service, Dallas—Fort Worth, Office: 469–424–7212, Email: *Frantz.Eyssallenne@trade.gov*

April Redmon, Director, U.S. Commercial Service, Arlington, Office 703–235–0103, Email: *April.Redmon@trade.gov*

Gemal Brangman,

Director, ITA Events Management Task Force.

[FR Doc. 2023–13436 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–DR–P

[1] For purposes of assessing participation fees, an applicant is a small or medium-sized enterprise (SME) if it qualifies under the Small Business Administration's (SBA) size standards (*https://www.sba.gov/document/support--table-size-standards*), which vary by North American Industry Classification System (NAICS) Code. The SBA Size Standards Tool (*https://www.sba.gov/size-standards/*) can help you determine the qualifications that apply to your company.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–151]

Tin Mill Products From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of tin mill product from the People's Republic of China (China). The period of investigation is January 1, 2022, through December 31, 2022. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Genevieve Coen or Melissa Porpotage, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3251 or (202) 482–1413, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 14, 2023.[1] On March 24, 2023, Commerce postponed the preliminary determination of this investigation until June 20, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics

[1] *See Tin Mill Products from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 88 FR 9476 (February 14, 2023) (*Initiation Notice*).

[2] *See Tin Mill Products from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 88 FR 17807 (March 24, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Tin Mill

Continued

discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are tin mill products from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* Commerce intends to issue its preliminary decision regarding comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigation on or before the preliminary determination of the companion AD investigations.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6]

Commerce notes that, in making these findings, it relied, in part, on facts available, and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[7] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of tin mill products from China based on a request made by Cleveland-Cliffs Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, the petitioners).[8] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than October 30, 2023, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to Baoshan Iron & Steel Co. Ltd. Therefore, the only rate that is not zero, *de minimis,* or based entirely on facts otherwise available is the rate calculated for Shougang Jingtang United Iron & Steel Co., Ltd. (Jingtang Iron). Consequently, the rate calculated for Jingtang Iron is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Baoshan Iron & Steel Co., Ltd	542.55
Shougang Jingtang United Iron & Steel Co., Ltd[9]	89.02
All Others	89.02

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs after the deadline date for case briefs.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11] Pursuant to 19 CFR

Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a) and (b) of the Act.

[8] *See* Petitioners' Letter, ''Petitioners' Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,'' dated May 24, 2023.

[9] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Jingtang Iron: Shougang Group Co., Ltd.; Shougang Casey Steel Co., Ltd.; Beijing Shougang Co., Ltd.; Beijing Shougang Steel Trade Management Co., Ltd.; Beijing Shougang Machinery & Electric Co., Ltd.; Beijing Shougang Gas Co., Ltd.; Qinhuangdao Shougang Machinery Co., Ltd.; Beijing Shoujian Equipment Maintenance Co., Ltd.; Beijing Shougang Lujiashan Limestone Mine Co., Ltd.; Hebei Shoulang New Energy Technology Co., Ltd.; Tangshan Caofeidian Industrial Zone Shouhanxin Industry Co., Ltd.; and China Shougang International Trade & Engineering Corporation.

[10] *See* 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date, time, and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 20, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The products within the scope of this investigation are tin mill flat-rolled products that are coated or plated with tin, chromium, or chromium oxides. Flat-rolled steel products coated with tin are known as tinplate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded. The following products are outside and/or specifically excluded from the scope of this investigation:

- Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) (±10%) or 0.251 mm (90 pound base box) (±10%) or 0.255 mm (±10%) with 770 mm (minimum width) (± 1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (±1/16 inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2 ½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m^2; with a chrome oxide coating restricted to 6 to 25 mg/m^2 with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m^2 as type DOS, or 3.5 to 6.5 mg/m^2 as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).
- Single reduced electrolytically chromium- or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.
- Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T–1 temper properties.
- Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70–130 mg/m^2, with a chromium oxide layer of 5–30 mg/m^2, with a tensile strength of 260–440 N/mm^2, with an elongation of 28–48%, with a hardness (HR–30T) of 40–58, with a surface roughness of 0.5–1.5 microns Ra, with magnetic properties of Bm (kg) 10.0 minimum, Br (kg) 8.0 minimum, Hc (Oe) 2.5–3.8, and MU 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU–60.
- Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¾ pound (0.000045 inch) and 1 pound (0.00006 inch).
- Electrolytically chromium coated steel having ultra flat shape defined as oil can maximum depth of 5/64 inch (2.0 mm) and edge wave maximum of 5/64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5/64 inch (2.0 mm) (based on six readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 4/32 inch(3.2 mm) and no more than two readings at 4/32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of ¼ inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/m^2 and chromium oxide of 10 mg/m^2, with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS–A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1/32 inch (0.8 mm) in width and 3/64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 35.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of ⅛ inch, with a thickness tolerance of 0.0005 inch, with a maximum coil weight of 20,000 pounds (9071.0 kg), with a minimum coil weight of 18,000 pounds (8164.8 kg), with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.
- Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3–0.4 grams/base box of type DOS–A oil, coil inside diameter ranging from 15.5 to 17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of 25,000 pounds, and with temper/coating/dimension combinations of: (1) CAT4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and

34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

- Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15–20 mg/216 sq. in., with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch x 31.748 inch scroll cut dimensions; or (2) 75 pound/base box (0.0082 inch) thickness and 34.1875 inch x 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch x 34.125 inch scroll cut dimension.
- Tin-free steel coated with a metallic chromium layer between 100–200 mg/m^2 and a chromium oxide layer between 5–30 mg/m^2; chemical composition of 0.05% maximum carbon, 0.03% maximum silicon, 0.60% maximum manganese, 0.02% maximum phosphorous, and 0.02% maximum sulfur; magnetic flux density (Br) of 10 kg minimum and a coercive force (Hc) of 3.8 Oe minimum.
- Tin-free steel laminated on one or both sides of the surface with a polyester film, consisting of two layers (an amorphous layer and an outer crystal layer), that contains no more than the indicated amounts of the following environmental hormones: 1 mg/kg BADGE (BisPhenol—A Di-glycidyl Ether), 1 mg/kg BFDGE (BisPhenol—F Di-glycidyl Ether), and 3 mg/kg BPA (BisPhenol—A).

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0020, 7210.50.0090, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0180 if of alloy steel. Although the subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–13522 Filed 6–23–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

District Export Council Nomination Opportunity

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity for appointment to serve as a District Export Council member.

SUMMARY: The Department of Commerce is currently seeking nominations of individuals for consideration for appointment by the Secretary of Commerce to serve as members of one of the 61 District Export Councils (DECs) nationwide. DECs are closely affiliated with the U.S. Export Assistance Centers (USEACs) of the U.S. and Foreign Commercial Service (US&FCS), which is part of the Global Markets unit within the International Trade Administration, and play a key role in the planning and coordination of export activities in their communities.

DATES: Nominations for individuals will be accepted through Sept 1, 2023.

FOR FURTHER INFORMATION CONTACT: Please contact the Director of your local USEAC for more information on DECs and the nomination process. You may identify your local USEAC by entering your zip code online at *https://trade.gov/commercial-service-offices-us.* The Director of your local USEAC can be identified by clicking the ''Contact Us'' tab. For general program information, contact Laura Barmby, National DEC Liaison, US&FCS, at (202) 482–2675.

SUPPLEMENTARY INFORMATION: District Export Councils support the mission of US&FCS by facilitating the development of an effective local export assistance network, supporting the expansion of export opportunities for local U.S. companies, serving as a communication link between the business community and US&FCS, and assisting in coordinating the activities of trade assistance partners to leverage available resources. Individuals appointed to a DEC become part of a select corps of trade professionals dedicated to providing international trade leadership and guidance to the local business community and assistance to the Department of Commerce on export development issues. DEC members are volunteers. DEC members are not special government employees. DEC members receive no compensation for their participation in DEC activities or reimbursement for travel and other personal expenses.

Nomination Process: Each DEC has a maximum membership of 35. There are currently vacancies on every DEC, with approximately half of the positions open on each DEC for the four-year term that begins on January 1, 2024, and runs through December 31, 2027. The online nomination form is available at *https://app.keysurvey.com/f/41667817/4d92/.* All potential nominees must complete the online nomination form linked above and consent to sharing of the information on that form with the DEC Executive Committee for its consideration, and consent, if appointed, to sharing of their contact information with other DEC members and relevant government agencies and private sector organizations with a focus on trade. Interested individuals are highly encouraged to reach out to the local USEAC Director to learn more about the DECs and to begin the application process as soon as possible.

Eligibility and Appointment Criteria: Appointment is based upon an individual's international trade leadership in the local community, ability to influence the local environment for exporting, knowledge of day-to-day international operations, interest in export development, and willingness and ability to devote time to DEC activities. Members must be employed as exporters or export service providers or in a profession which supports U.S. export promotion efforts. Members include exporters, export service providers and others whose profession supports U.S. export promotion efforts. DEC member appointments are made without regard to political affiliation. DEC membership is open to U.S. citizens and permanent residents of the United States. As representatives of the local exporting community, DEC Members must reside in, or conduct the majority of their work in, the territory that the DEC covers. DEC membership is not open to Federal Government employees. Individuals representing foreign governments, including individuals registered with the Department of Justice under the Foreign Agents Registration Act, must disclose such representation and may be

disqualified if the Department determines that such representation is likely to impact the ability to carry out the duties of a DEC member or raise an appearance issue for the Department.

Selection Process: Nominations of individuals who have applied for DEC membership will be forwarded to the local USEAC Director for the respective DEC for that Director's consideration. The local USEAC Director ensures that all nominees meet the membership criteria. The local USEAC Director then, in consultation with the local DEC Executive Committee, evaluates all nominees to determine their interest, commitment, and qualifications. In reviewing nominees, the local USEAC Director strives to ensure a balance among exporters from a manufacturing or service industry and export service providers. A fair representation should be considered from companies and organizations that support exporters, representatives of local and state government, and trade organizations and associations. Membership should reflect the diversity of the local business community, encompass a broad range of business and industry sectors, and be distributed geographically across the DEC service area, and where possible, the Department of Commerce will also consider the ethnic, racial, and gender diversity and various abilities of the United States population.

For current DEC members seeking reappointment, the local USEAC Director, in consultation with the DEC Executive Committee, also carefully considers the nominee's activity level during the previous term and demonstrated ability to work cooperatively and effectively with other DEC members and US&FCS staff. As appointees of the Secretary of Commerce in high-profile positions, though volunteers, DEC Members are expected to actively participate in the DEC and support the work of local US&FCS offices. Those that do not support the work of the office or do not actively participate in DEC activities will not be considered for re-nomination.

The local USEAC Director, in consultation with the local DEC Executive Committee, determines which nominees to forward to the US&FCS Office of U.S. Field for further consideration for recommendation to the Secretary of Commerce. A candidate's background and character are pertinent to determining suitability and eligibility for DEC membership. Since DEC appointments are made by the Secretary, the Department must make a suitability determination for all DEC nominees. After completion of a vetting process, the Secretary selects nominees for appointment to local DECs. DEC members are appointed by and serve at the pleasure of the Secretary of Commerce.

Authority: 15 U.S.C. 1512 and 4721.

Laura Barmby,

District Export Council Program Manager.

[FR Doc. 2023–13518 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084; C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Initiation of Antidumping and Countervailing Duty Changed Circumstances Reviews; Global Stone

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Global Stone Collection, LLC (Global Stone), the U.S. Department of Commerce (Commerce) is initiating changed circumstances reviews (CCR) of the antidumping duty (AD) and countervailing duty (CVD) orders on certain quartz surface products (quartz surface products) from the People's Republic of China (China) to determine whether the quartz surface products imported by Global Stone into the United States and exported by Bada Industries SDN BHD (Bada Industries) from Malaysia were manufactured in Malaysia with non-Chinese origin quartz slab.

DATES: Applicable June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Ajay Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2019, Commerce published in the **Federal Register** the orders on quartz surface products from China.[1] On October 21, 2022, Commerce published in the **Federal Register** the final results of a scope ruling regarding imports of quartz surface products manufactured in China and further processed in Malaysia, finding that such imports are covered by the scope of the *Orders*.[2] Moreover, because exporters of quartz surface products from Malaysia export both subject and non-subject merchandise, Commerce established a scope certification process for all imports of quartz surface products from Malaysia. Specifically, Commerce set forth certification requirements for importers and exporters to permit imports from Malaysia produced from non-Chinese origin quartz slab not to be subject to suspension of liquidation and cash deposit requirements. In so doing, Commerce also determined that certain companies processing Chinese quartz slab in Malaysia, including Bada Industries, were ineligible to participate in this scope certification process.[3] However, Commerce indicated that these companies, including Bada Industries, could request reconsideration of their exclusion from the certification process in a future segment of the proceeding (*e.g.,* in a CCR).[4]

On May 11, 2023, Global Stone submitted a letter requesting that Commerce conduct a CCR to reconsider Bada Industries' eligibility for the certification process, such that Bada Industries can certify that the quartz surface products imported by Global Stone are not produced from Chinese-origin quartz slab.[5] We received no comments from interested parties regarding the CCR Request.

Scope of the Orders

The products covered by the *Orders* are quartz surface products from China.[6] The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

[1] *See Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders,* 84 FR 33053 (July 11, 2019) (*Orders*).

[2] *See Certain Quartz Surface Products from the People's Republic of China: Final Scope Ruling on Malaysian Processed Quartz Slab and Recission of the Circumvention Inquiry,* 87 FR 64009, 64010 (October 21, 2022).

[3] *Id.*

[4] *Id.,* 87 FR at 64010.

[5] *See* Global Stone's Letter, ''Request for Changed Circumstances Review of Bada Industries,'' dated May 11, 2023 (CCR Request).

[6] *See Orders,* 84 FR at 33055–33056, for a complete description of the scope.

Initiation of CCR

Pursuant to section 751(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d), Commerce conducts a CCR upon receipt of information concerning, or a request from, an interested party for a review of an AD or CVD order which shows changed circumstances sufficient to warrant a review of the order. The information Global Stone provided regarding Bada Industries' exports of quartz surface products demonstrates changed circumstances sufficient to warrant such a review.[7] Therefore, we are initiating a CCR pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d) based upon the information contained in Global Stone's submission to determine whether Bada Industries is eligible to certify that its quartz surface products are not produced from Chinese-origin quartz slab.

Commerce will issue a questionnaire requesting additional information from Global Stone for this CCR regarding its quartz slab and will publish in the **Federal Register** a notice of the preliminary results, in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i). All information submitted may be subject to verification. Failure to allow full and complete verification of any information submitted may affect Commerce's consideration of that information. Commerce will set forth its preliminary factual and legal conclusions in this notice and a description of any action proposed based on those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results. Unless extended, Commerce will issue the final results of this CCR in accordance with the time limits set forth in 19 CFR 351.216(e).

Notification to Interested Parties

We are issuing this notice in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(b), and 351.221(b)(1).

Dated: June 20, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–13480 Filed 6–23–23; 8:45 am]

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[7] *See, generally,* CCR Request.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan. The period of review (POR) is July 1, 2021, through June 30, 2022. This review covers the following producers and exporters from Taiwan: Nan Ya Plastics Corporation (Nan Ya); and Shinkong Materials Technology Corporation (SMTC)/Shinkong Synthetic Fibers Corporation (SSFC). Commerce preliminarily determines that sales of subject merchandise have not been made below normal value (NV) by Nan Ya during the POR. In addition, we preliminarily find that SMTC/SSFC had no shipments during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo or Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3797 or (202) 482–5255, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2022, Commerce published in the **Federal Register** a notice of opportunity [1] to request an administrative review of the AD order on PET film from Taiwan.[2] On September 6, 2022, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation of an administrative review of the *Order*.[3]

On March 28, 2023, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2), Commerce extended the due date for the preliminary results by 80 days until June 21, 2023.[4] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5]

A list of the topics included in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The merchandise subject to the *Order* is PET film.[6] The product is currently classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS number is provided for convenience and for customs purposes, the written product description, available in the Preliminary Decision Memorandum, remains dispositive.

Preliminary Determination of No Shipments

Based on U.S. Customs and Border Protection's (CBP) response to Commerce's no-shipment inquiry, as well as the no-shipment certification provided by SMTC/SSFC,[7] we

[1] *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review,* 87 FR 39461 (July 1, 2022).

[2] *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan,* 67 FR 44174 (July 1, 2002) (*Order*).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 54463 (September 6, 2022).

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated March 28, 2023.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan; 2021–2022'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* Preliminary Decision Memorandum at 3.

[7] In the 2011–2012 administrative review, we treated SMTC and SSFC as a single entity for purposes of this order. *See Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 48651 (August 9, 2013), and accompanying Preliminary Decision Memorandum, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan:*

preliminarily determine that SMTC/SSFC had no shipments and, therefore, no reviewable entries of subject merchandise during the POR. Consistent with Commerce's practice, we will not rescind the review with respect to SMTC/SSFC, but, rather, will complete the review and issue appropriate liquidation instructions to CBP based on the final results.[8] For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Act. Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, Commerce preliminarily determines that the following weighted-average dumping margin exists for the period July 1, 2021, through June 30, 2022:

Producer/exporter	Weighted-average dumping margin (percent)
Nan Ya Plastics Corporation	0.00

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[9] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[10] Interested parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212(b). If a respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by an individually examined respondent for which it did not know its merchandise was destined for the United States, we intend to instruct CBP to liquidate such entries at the all-others rate (*i.e.,* 2.40 percent) if there is no rate for the intermediate company(ies) involved in the transaction.[13]

If we continue to find in the final results that SMTC/SSFC had no shipments of subject merchandise during the POR, we will instruct CBP to liquidate any suspended entries that entered under their antidumping duty case numbers (*i.e.,* at that exporter's rate) at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of PET film from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Nan Ya will be the rate established in the final results of this review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of

Final Results of Antidumping Duty Administrative Review; 2011–2012, 79 FR 11407 (February 28, 2014). We have treated SMTC and SSFC as a single entity in all subsequent reviews. There is no information on the record of this administrative review that would lead Commerce to reconsider that determination. Accordingly, we continue to treat SMTC and SSFC as a single entity for purposes of this administrative review.

[8] *See Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 85 FR 74673 (November 23, 2020), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 14311 (March 15, 2021).

[9] *See* 19 CFR 351.224(b).

[10] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'').

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[13] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

the merchandise; and (4) the cash deposit rate for all other producers or exporters is 2.40 percent.[14] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: June 20, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–13520 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See Order.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–918; C–570–153]

Certain Paper Shopping Bags From India and the People's Republic of China: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 20, 2023.

FOR FURTHER INFORMATION CONTACT: Paul Kebker (India) and Seth Brown (the People's Republic of China (China)), AD/CVD Operations, Offices IV and IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2254 or (202) 482–0029, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 31, 2023, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of certain paper shopping bags (paper bags) from China and India filed in proper form on behalf of the Coalition for Fair Trade in Shopping Bags (the petitioner).[1] The CVD petitions were accompanied by antidumping duty (AD) petitions concerning imports of paper bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam.[2]

On June 2, 5, 6, and 13, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petitions.[3] On June 8, 9, and 15, 2023, the petitioner filed timely responses to these requests for additional information.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) and the Government of India (GOI) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of paper bags in China and India, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the Petitions are supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(F) of the Act.[5] Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigations.[6]

Periods of Investigation

Because the Petitions were filed on May 31, 2023, the periods of investigation (POI) for China and India are January 1, 2022, through December 31, 2022.[7]

Scope of the Investigations

The product covered by these investigations is paper bags from China and India. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on Scope of the Investigations

On June 2 and 13, 2023, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[8] On June 8 and 15, 2023, the petitioner provided

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam,'' dated May 31, 2023 (Petitions). The members of the Coalition for Fair Trade in Shopping Bags include Novolex Holdings, LLC (Novolex) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively, the petitioner).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Supplemental Questions,'' dated June 2, 2023 (General Issues Questionnaire); ''Petition for the Imposition of Countervailing Duties on Imports of Certain Paper Shopping Bags from the People's Republic of China: Supplemental Questions,'' dated June 5, 2023; and ''Petition for the Imposition of Countervailing Duties on Imports of Certain Paper Shopping Bags from India: Supplemental Questions,'' dated June 6, 2023; *see also* Memorandum, ''Phone Call with Counsel to the Petitioner,'' dated June 13, 2023 (June 13, 2023, Memorandum).

[4] *See* Petitioner's Letters, ''Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam: Response of Petitioner to Volume I Supplemental Questionnaire,'' dated June 8, 2023 (First General Issues Supplement); ''Countervailing Duties on Imports of Certain Paper Shopping Bags from China: Response of Petitioner to Volume XI Supplemental Questionnaire,'' dated June 9, 2023; ''Countervailing Duties on Imports of Certain Paper Shopping Bags from India: Response of Petitioner to Volume XII Supplemental Questionnaire,'' dated June 9, 2023; and ''Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam: Response of Petitioner to Commerce's Second Supplemental Questions Concerning Volumes I, VI, IX, and X,'' dated June 15, 2023 (Second General Issue Supplement).

[5] *See* Petitions at Volume I (pages 2–3). The members of the Coalition for Fair Trade in Shopping Bags (Novolex and the USW) are interested parties, as defined in sections 771(9)(C) and (D) of the Act, respectively.

[6] *See* ''Determination of Industry Support for the Petitions'' section, *infra.*

[7] *See* 19 CFR 351.204(b)(2).

[8] *See* General Issues Questionnaire; *see also* June 13, 2023, Memorandum at 2.

clarifications and revised the scope.[9] The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for parties to raise issues regarding product coverage (*i.e.,* scope).[10] Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information, all such factual information should be limited to public information.[11] To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on July 10, 2023, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 20, 2023, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that the parties consider relevant to the scope of the investigations be submitted during that time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed on the record of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[12] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC and the GOI of the receipt of the Petitions and provided each an opportunity for consultations with respect to the Petitions.[13] Commerce held consultations with the GOI on June 9, 2023.[14] The GOC did not request consultations.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[17] Based on our analysis of the information submitted on the record, we have determined that paper bags, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided the 2022 production of paper bags for the U.S. producers that support the Petitions and compared this to the estimated total 2022 production of paper bags by the U.S. industry.[19] We relied on data

[9] *See* First General Issues Supplement at 2–7 and Exhibit I–S5; *see also* Second General Issues Supplement at 1 and Exhibit I–2S1.

[10] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

[11] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[12] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[13] *See* Commerce's Letters, ''Invitation for Consultations on the China CVD Petition,'' dated June 1, 2023; and ''Countervailing Duty Petition on Certain Paper Shopping Bags from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated June 2, 2023.

[14] *See* Memorandum, ''Consultations with Officials from the Government of India,'' dated June 9, 2023.

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[17] *See* Petitions at Volume I (pages 10–15 and Exhibits I–10 through I–12); *see also* First General Issues Supplement at 10.

[18] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Commerce's Initiation Checklists, ''Certain Paper Shopping Bags from the People's Republic of China'' and ''Certain Paper Shopping Bags from India,'' dated concurrently with this notice (Country-Specific CVD Initiation Checklists), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam). These checklists are on file electronically via ACCESS.

[19] *See* Petitions at Volume I (pages 4–5 and Exhibits I–2 through I–4); *see also* First General Issues Supplement at 7–9 and Exhibits I–S6 through I–S8.

provided by the petitioner for purposes of measuring industry support.[20]

Our review of the data provided in the Petitions, the First General Issues Supplement, the Industry Support Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[21] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[22] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[23] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[24] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[25]

Injury Test

Because China and India are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from China and/or India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports from China and India exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[26]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; decline in the domestic industry's production, capacity utilization, and U.S. commercial shipments; and adverse impact on the domestic industry's profitability and financial performance.[27] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[28]

Initiation of CVD Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of paper bags from China and India benefit from countervailable subsidies conferred by the GOC and GOI. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

China

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on 17 of 18 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate an investigation of each program, *see* the China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

India

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on 12 of the 13 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate an investigation of each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner identified 26 companies in China and 18 companies in India as producers and/or exporters of paper bags.[29] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations. In the event that Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to the potential respondents. Commerce normally selects mandatory respondents in CVD investigations using U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigations. However, for these investigations, the main HTSUS subheadings under which the subject merchandise would enter (4819.30.0040 and 4819.40.0040) are basket categories under which non-subject merchandise may enter. Therefore, we cannot rely on CBP entry data in selecting respondents. Instead, we intend to issue Q&V questionnaires to each potential

[20] *See* Petitions at Volume I (pages 2–5 and Exhibits I–2 through I–4); *see also* First General Issues Supplement at 7–9 and Exhibits I–S6 through I–S8; Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam—Industry Support Calculation Revision,'' dated June 9, 2023 (Industry Support Supplement), at Attachments A and B; and Second General Issues Supplement at 2–3 and Exhibits I–2S2 through I–2S4. For further discussion, *see* Attachment II of the Country-Specific CVD Initiation Checklists.

[21] *See* Petitions at Volume I (pages 2–5 and Exhibits I–1 through I–4); *see also* First General Issues Supplement at 7–9 and Exhibits I–S6 through I–S8; Industry Support Supplement at 1–2 and Attachments A and B; and Second General Issues Supplement at 2–3 and Exhibits I–2S2 through I–2S4. For further discussion, *see* Attachment II of the Country-Specific CVD Initiation Checklists.

[22] *See* Attachment II of the Country-Specific CVD Initiation Checklists; *see also* section 702(c)(4)(D) of the Act.

[23] *See* Attachment II of the Country-Specific CVD Initiation Checklists.

[24] *Id.*

[25] *Id.*

[26] *See* Petitions at Volume I (pages 18–19 and Exhibit I–15).

[27] *Id.* at 16–31 and Exhibits I–6 and I–13 through I–18; *see also* First General Issues Supplement at 10–12 and Exhibit I–S9.

[28] *See* Country-Specific CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam.

[29] *See* Petitions at Volume I (Exhibit I–7); *see also* First General Issues Supplement at Exhibit I–S2.

respondent for which the petitioner has provided a complete address.

Exporters/producers of paper bags from China and India that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain the Q&V questionnaire from E&C's website at *https://www.trade.gov/ec-adcvd-case-announcements.* Responses to the Q&V questionnaire must be submitted by the relevant Indian and Chinese producers/exporters no later than 5:00 p.m. ET on July 5, 2023, which is the next business day after two weeks from the signature date of this notice.[30] All Q&V responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petitions has been provided to the GOC and GOI via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of paper bags from China and/or India are materially injuring, or threatening material injury to, a U.S. industry.[31] A negative ITC determination for either country will result in the investigation being terminated with respect to that country.[32] Otherwise, these CVD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [33] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[34] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[35] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in these investigations.[36]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[37] Parties must use the certification formats provided in 19 CFR 351.303(g).[38] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[39]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 20, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

Scope of the Investigations

The products within the scope of these investigations are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type

[30] *See* 19 CFR 351.303(b)(1) (''For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.''). Two weeks from the initiation of these investigation is July 4, 2023, which is a Federal holiday.

[31] *See* section 703(a)(1) of the Act.

[32] *Id.*

[33] *See* 19 CFR 351.301(b).

[34] *See* 19 CFR 351.301(b)(2).

[35] *See* 19 CFR 351.302.

[36] *See* 19 CFR 301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[37] *See* section 782(b) of the Act.

[38] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[39] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Shopping bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

The merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

[FR Doc. 2023–13521 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–873]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Final Results of Antidumping Duty Administrative Reviews of Goodluck India Limited; 2017–2019 and 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Goodluck India Limited (Goodluck) made sales of certain cold-drawn mechanical tubing of carbon and alloy steel (CDMT) from India in the United States at prices below normal value (NV) during the periods of review (PORs) of November 22, 2017, through May 31, 2019 (AR1) and June 1, 2019, through May 31, 2020 (AR2).

DATES: Applicable June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 2022, Commerce published the *Preliminary Results* of these reviews in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results.* Between January 26, 2023, and February 9, 2023, Commerce received timely-filed briefs and rebuttal briefs from Goodluck and from ArcelorMittal Tubular Products LLC, Michigan Seamless Tube, LLC, Plymouth Tube, PTC Alliance Corp., Webco Industries, Inc., and Zekelman Industries (collectively, the petitioners).[2]

On April 12, 2023, we extended the deadline for the final results, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2) [3] until June 16, 2023. On May 24, 2023, Commerce held a hearing during which parties presented arguments in their case briefs.[4]

Based on an analysis of the comments received, we did not make changes to the weighted-average dumping margins calculated for Goodluck. The weighted-average dumping margins are listed in the ''Final Results of Review'' section, below. Commerce conducted these reviews in accordance with section 751(a) of the Act.

Scope of the Order [5]

The merchandise covered by the *Order* is CDMT from India. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum, which is hereby adopted by this notice. The issues are identified in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our review and analysis of the comments received from parties, we did not make changes to Goodluck's margin calculations. *See* the Issues and Decision Memorandum.

Final Results of Reviews

We are assigning the following weighted-average dumping margin to Goodluck for the period November 22, 2017, through May 31, 2019:

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[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Results of Antidumping Duty Administrative Reviews of Goodluck India Limited; 2017–2019 and 2019–2020;* 87 FR 77793 (December 20, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum); *see also Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Notice of Second Amended Final Determination; Notice of Amended Order; Notice of Resumption of First and Reinitiation of Second Antidumping Duty Administrative Reviews; Notice of Opportunity for Withdrawal; and Notice of Assessment in Third Antidumping Duty Administrative Review,* 86 FR 74069 (December 29, 2021) (*AR1 Resumption and AR2 Reinitiation Notice*).

[2] *See* Petitioners' Letters, ''Petitioners' Case Brief for Goodluck India Limited,'' dated January 26, 2023; ''Petitioners' Case Brief for Goodluck India Limited,'' dated January 26, 2023; and Goodluck's Letters, ''Goodluck Administrative Case Brief,'' dated January 26, 2023; ''Goodluck Administrative Case Brief,'' dated January 26, 2023. *See also* Petitioners' Letters, ''Petitioners' Rebuttal Brief for Goodluck India Limited,'' dated February 9, 2023; ''Petitioners' Rebuttal Brief for Goodluck India Limited,'' dated February 9, 2023; and Goodluck's Letters, ''Goodluck Administrative Rebuttal Brief,'' dated February 9, 2023; ''Goodluck Administrative Rebuttal Brief,'' dated February 9, 2023.

[3] *See* Memorandum, ''Extension of Deadline for Final Results of 2017–2019 and 2019–2020 Antidumping Duty Administrative Reviews for Goodluck India Limited,'' dated April 12, 2023.

[4] *See* Hearing Transcript, ''Public Hearing in the Matter of the Administrative Review of the Antidumping Duty Order on Cold-Drawn Mechanical Tubing from India,'' dated May 24, 2023.

[5] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Antidumping Duty Orders; and Amended Final Determinations of Sales at Less Than Fair Value for the People's Republic of China and Switzerland,* 83 FR 26962 (June 11, 2018) (*Order*).

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Reviews of Goodluck India Limited: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India 2017–2019 & 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Exporter/producer	Weighted-average dumping margin (percent)
Goodluck India Limited	1.59

We are assigning the following weighted-average dumping margin to Goodluck for the period June 1, 2019, through May 31, 2020:

Exporter/producer[7]	Weighted-average dumping margin (percent)
Goodluck India Limited	1.39

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of these reviews.

Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[8] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[9]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the 2017–2019 POR produced by Goodluck for which the company did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair-value investigation if there is no rate for the intermediate company(ies) involved in the transaction.[10] Additionally, for the 2017–2019 POR, we intend to instruct CBP to take into account the ''provisional measures deposit cap,'' in accordance with 19 CFR 351.212(d).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of these reviews in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of CDMT from India entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for entries for Goodluck will be equal to the weighted-average dumping margin established in the final results of the 2020–2021 review; (2) for merchandise exported by companies not covered in these reviews but covered in another completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recently-completed segment; and (3) the cash deposit rate for all other producers or exporters will continue to be 5.87 percent, the all-others rate established in the LTFV investigation in this proceeding.[11]

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these PORs. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: June 16, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–13485 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084; C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Initiation of Antidumping and Countervailing Duty Changed Circumstances Reviews; AM Stone

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from AM Stone Cabinets, Inc. (AM Stone), the U.S. Department of Commerce (Commerce) is initiating changed circumstances reviews (CCR) of the

[7] Commerce previously completed a 2019–2020 review of entries for which Goodluck India Limited was either the exporter or the producer, but not both. *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020,* 86 FR 59982 (October 29, 2021) (*CDMT AR2 2021 Final*). Here, Commerce has completed its review of entries exported and produced by Goodluck India Limited. Accordingly, with the conclusion of this review, Commerce has assigned a cash deposit rate to all Goodluck entries, consistent with its standard practice.

[8] *See* 19 CFR 351.212(b)(1).

[9] *See* 19 CFR 351.106(c)(2).

[10] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). We note that the 2019–2020 administrative review only covers entries produced and exported by Goodluck during the POR. *See AR1 Resumption and AR2 Reinitiation Notice; see also Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 47731 (August 6, 2020); *see also CDMT AR2 2021 Final,* 86 FR at 59983 (finding that Goodluck had no shipments during the POR under the producer/exporter combinations under review). We note that Commerce's ''automatic assessment'' practice, referenced above, does not apply to entries during the 2019–2020 POR under these circumstances, because Commerce previously issued the final results of review with respect to such entries, along with corresponding customs instructions.

[11] *See Orders,* 83 FR at 24964.

antidumping duty (AD) and countervailing duty (CVD) orders on certain quartz surface products (quartz surface products) from the People's Republic of China (China) to determine whether the quartz surface products imported by AM Stone into the United States and exported by Universal Quartz and Stone Industrial SDN BHD (Universal Quartz) from Malaysia were manufactured in Malaysia with non-Chinese origin quartz slab.

DATES: Applicable June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Ajay Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2019, Commerce published in the **Federal Register** the orders on quartz surface products from China.[1] On October 21, 2022, Commerce published in the **Federal Register** the final results of a scope ruling regarding imports of quartz surface products manufactured in China and further processed in Malaysia, finding that such imports are covered by the scope of the *Orders.*[2] Moreover, because exporters of quartz surface products from Malaysia export both subject and non-subject merchandise, Commerce established a scope certification process for all imports of quartz surface products from Malaysia. Specifically, Commerce set forth certification requirements for importers and exporters to permit imports from Malaysia produced from non-Chinese origin quartz slab not to be subject to suspension of liquidation and cash deposit requirements. In so doing, Commerce also determined that certain companies processing Chinese quartz slab in Malaysia, including Universal Quartz, were ineligible to participate in this scope certification process.[3] However, Commerce indicated that these companies, including Universal Quartz, could request reconsideration of their exclusion from the certification process in a future segment of the proceeding (*e.g.,* in a CCR).[4]

On May 11, 2023, AM Stone submitted a letter requesting that Commerce conduct a CCR to reconsider Universal Quartz's eligibility for the certification process, such that Universal Quartz can certify that the quartz surface products imported by AM Stone are not produced from Chinese-origin quartz slab.[5] We received no comments from interested parties regarding the CCR Request.

Scope of the Orders

The products covered by the *Orders* are quartz surface products from China.[6] The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Initiation of CCR

Pursuant to section 751(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d), Commerce conducts a CCR upon receipt of information concerning, or a request from, an interested party for a review of an AD or CVD order which shows changed circumstances sufficient to warrant a review of the order. The information AM Stone provided regarding Universal Quartz's exports of quartz surface products demonstrates changed circumstances sufficient to warrant such a review.[7] Therefore, we are initiating a CCR pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d) based upon the information contained in AM Stone's submission to determine whether Universal Quartz is eligible to certify that its quartz surface products are not produced from Chinese-origin quartz slab.

Commerce will issue a questionnaire requesting additional information from AM Stone for this CCR regarding its quartz slab and will publish in the **Federal Register** a notice of the preliminary results, in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i). All information submitted may be subject to verification. Failure to allow full and complete verification of any information submitted may affect Commerce's consideration of that information. Commerce will set forth its preliminary factual and legal conclusions in this notice and a description of any action proposed based on those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results. Unless extended, Commerce will issue the final results of this CCR in accordance with the time limits set forth in 19 CFR 351.216(e).

Notification to Interested Parties

We are issuing this notice in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(b), and 351.221(b)(1).

Dated: June 20, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–13477 Filed 6–23–23; 8:45 am]

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[1] *See Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders,* 84 FR 33053 (July 11, 2019) (*Orders*).

[2] *See Certain Quartz Surface Products from the People's Republic of China: Final Scope Ruling on Malaysian Processed Quartz Slab and Recission of the Circumvention Inquiry,* 87 FR 64009, 64010 (October 21, 2022).

[3] *Id.*

[4] *Id.,* 87 FR at 64010.

[5] *See* AM Stone's Letter, ''Request for Changed Circumstances Review of Universal Quartz,'' dated May 11, 2023 (CCR Request).

[6] *See Orders,* 84 FR at 33055–56, for a complete description of the scope.

[7] *See, generally,* CCR Request.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of 2015–2016 Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 9, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.* v. *United States,* Court no. 18–00191, sustaining the Department of Commerce (Commerce)'s second remand results pertaining to the administrative review of the antidumping duty (AD) order on multilayered wood flooring (MLWF) from the People's Republic of China (China) covering the period December 1, 2015, though November 30, 2016. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Jilin Forest Industry Jinqiao Flooring Group Co., Ltd. (Jilin Forest).

DATES: Applicable June 19, 2023.

FOR FURTHER INFORMATION CONTACT: Alexis Cherry, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0607.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 2018, Commerce published its *Final Results* in the 2015–2016 AD administrative review of MLWF from China.[1] Commerce determined that mandatory respondent Jilin Forest did not qualify for a separate rate because it is an entity that is majority-owned by the Chinese government and, therefore, had not demonstrated an absence of *de facto* government control. Jilin Forest appealed Commerce's *Final Results.* On April 29, 2021, the CIT remanded the *Final Results* to Commerce.[2] The CIT held the following: (1) Commerce's determination of *de facto* government control of Jilin Forest, a cooperating mandatory respondent, lacks the support of substantial evidence and is not in accordance with law; and (2) Commerce failed to explain how the application of its non-market-economy (NME) presumption to Jilin Forest after the company was selected for individual examination was in accordance with law and supported by substantial evidence.[3]

In its first remand redetermination, issued in November 2021, Commerce further explained its determination that Jilin Forest failed to rebut the presumption of *de facto* government control and, therefore, was not entitled to an individual weighted-average dumping margin separate from the rate established for the China-wide entity.[4] Additionally, Commerce provided an overview of its broad authority under the statutory scheme, the purpose of Commerce's NME presumption,[5] and the application of its NME presumption and the application of the weighted-average dumping margin established for the China-wide entity to Jilin Forest.[6] We also referenced the U.S. Court of Appeals for the Federal Circuit's (Federal Circuit's) decisions that have affirmed Commerce's application of the NME presumption and recognition of an NME-wide entity as a single exporter for purposes of assigning an antidumping duty rate to the individual members of the NME-wide entity that have not demonstrated either their *de jure* or *de facto* independence from government control.[7]

The CIT remanded for a second time, finding that Commerce did not provide a ''lawful justification for its use of the NME presumption with respect to Jilin {Forest} as a cooperative mandatory respondent'' and ordered Commerce to calculate an individual weighted-average dumping margin for Jilin Forest.[8] The CIT also held Commerce's reliance on the China NME Status report for the basis that labor unions in China are under state control is substantial evidence ''to support Commerce's conclusion that Jilin has not rebutted the presumption of state control { } because if Jilin's labor union is under state control, its appointment of a majority of Jilin's board of directors confirms that the state controls the company.'' [9]

In its second remand redetermination, issued in May 2023, Commerce calculated a weighted-average dumping margin for Jilin Forest, under respectful protest, in accordance with the methodology set out in the *Preliminary Results.*[10] The CIT sustained Commerce's second remand redetermination.[11]

Timken Notice

In its decision in *Timken,*[12] as clarified by *Diamond Sawblades,*[13] the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's June 9, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Jilin Forest as follows:

Exporter	Margin (percent)
Jilin Forest Industry Jinqiao Flooring Group Co., Ltd	0.00

Cash Deposit Requirements

Because Jilin Forest has a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were exported by Jilin Forest, and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2015, through November 30, 2016.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[14]

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[1] *See Multilayered Wood flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission; 2015–2016,* 83 FR 35461 (July 26, 2018), and accompanying Issues and Decision Memorandum; and *Multilayered Wood Flooring from the People's Republic of China: Correction to the Final Results of Antidumping Duty Administrative Review; 2015–2016,* 83 FR 45418 (September 7, 2018) (in which Commerce corrected the misspelling of Dalian Guhua Wooden Product Co., Ltd.'s name and included Double F Limited among the companies for which this review was rescinded) (collectively, *Final Results*). Commerce referred to the respondent Jilin Forest Industry Jinqiao Flooring Group Co., Ltd. as ''Jinqiao Flooring'' in the *Final Results.*

[2] *See Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.* v. *United States,* 519 F. Supp. 3d 1224 (CIT 2021).

[3] *Id.*

[4] *See Final Results of Redetermination Pursuant to Court Remand, Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.* v. *United States,* Court No. 18–00191, Slip Op. 21–49 (CIT April 29, 2021), dated November 15, 2021, at 4–13, 37–42, available at *https://access.trade.gov/Resources/remands/21-49.pdf.*

[5] *Id.* at 15–22.

[6] *Id.* at 25–28.

[7] *Id.* at 19–21.

[8] *See Jilin Forest Industry Jinqiao Flooring Group Co. Ltd.* v. *United States,* 617 F. Supp.3d 1343, 1369 (CIT 2023).

[9] *Id.* at 1350.

[10] *See Final Results of Redetermination Pursuant to Court Remand, Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.* v. *United States,* Court No. 18–00191, Slip Op. 23–14 (CIT February 9, 2023), dated May 3, 2023, at 4–13, 37–42. *See also Multilayered Wood Flooring from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission of Review, in Part; 2015–2016,* 83 FR 2137 (January 16, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[11] *See Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.* v. *United States,* Consol. Court No. 18–00191 (CIT June 9, 2023).

[12] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[13] *See Diamond Sawblades Manufacturers Coalition* v. *United States, 626 F.3d 1374 (Fed. Cir. 2010)* (*Diamond Sawblades*).

[14] *See* 19 CFR 351.106(c)(2).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: June 20, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–13523 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Reporting Requirements for the Ocean Salmon Fishery Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 25, 2023.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0433 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Shannon Penna, National Marine Fisheries Service (NMFS) West Coast Region, 7600 Sand Point Way NE, Seattle WA 98115; telephone: 562–980–4239; email: *shannon.penna@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

Ocean salmon fisheries conducted in the U.S. exclusive economic zone, 3–200 nautical miles off the West Coast states of Washington, Oregon, and California are managed by the Pacific Fishery Management Council (Council) and NOAA's NMFS under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Management measures for the ocean salmon fisheries are set annually, consistent with the Council's Pacific Coast Salmon Fishery Management Plan (FMP). The FMP provides a framework for managing the ocean salmon fisheries in a sustainable manner, as required under the MSA, through the use of conservation objectives, annual catch limits, and other reference points and status determination criteria described in the FMP. To meet these criteria, annual management measures, published in the **Federal Register** by NMFS, specify regulatory areas, catch restrictions, and landing restrictions based on the stock abundance forecasts. These catch and landing restrictions include area- and species-specific quotas for the commercial ocean salmon fishery, and generally require catch and landings to be reported to the appropriate state and tribal agencies to allow for timely and accurate accounting of the season's catch (50 CFR 660.404 and 50 CFR 660.408(o)). The best available catch and effort data and projections are presented by the state fishery managers in telephone conference calls involving the NMFS Regional Administrator and representatives of the Council. However, NMFS acknowledges that unsafe weather or mechanical problems could prevent commercial fishermen from making their landings at the times and places specified, and the MSA requires conservation and management measures to promote the safety of human life at sea. Therefore, the annual management measures will include provisions to exempt commercial salmon fishermen from compliance with the landing requirements when they experience unsafe weather conditions or mechanical problems at sea, so long as the appropriate notifications are made by, for example, at-sea radio and cellular telephone, and information on catch and other required information is given, under this collection of information.

The annual management measures will specify the contents and procedure of the notifications, and the entities receiving the notifications (*e.g.,* U.S. Coast Guard). Absent this requirement by the Council, the state reporting systems would not regularly collect this specific type of in-season radio report. These provisions, and this federal collection of information, promote safety at sea and provide practical utility for sustainably managing the fishery, and ensure regulatory consistency across each state by implementing the same requirements in the territorial waters off each state. This information collection is intended to be general in scope by leaving the specifics of the notifications for annual determination, thus providing flexibility in responding to salmon management concerns in any given year.

II. Method of Collection

Notifications are made by at-sea radio or cellular phone transmissions.

III. Data

OMB Control Number: 0648–0433.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 40.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 10 hours.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

Respondent's Obligation: Mandatory.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request

to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–13509 Filed 6–23–23; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (OIRA), of the Office of Management and Budget (OMB), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before July 26, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0090, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Lee McFarland, Attorney Advisor, Market Participants Division, Commodity Futures Trading Commission, (202) 418–5368, email: *lmcfarland@cftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Adaptation of Regulations to Incorporate Swaps—Records of Transactions; Exclusion of Utility Operations Related Swaps with Utility Special Entities from De minimis Threshold for Swaps with Special Entities (OMB Control No. 3038–0090). This is a request for extension of a currently approved information collection.

Abstract: Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, Pub. L. 111–203, 124 Stat. 1376 (2010)) amended the Commodity Exchange Act (CEA) to establish a comprehensive new statutory framework for swaps. These amendments required the Commodity Futures Trading Commission (''the Commission'') to amend several of its regulations to implement the new framework. The information collection obligations imposed by the ''Adaptation of Regulations to Incorporate Swaps'' final regulations[2] remain necessary to implement section 721 of the Dodd-Frank Act, which amended the definitions of futures commission merchant (''FCM'') and introducing broker (''IB'') to permit these intermediaries to trade swaps on behalf of customers. They also are necessary to implement section 733 of the Dodd-Frank Act which introduced swap execution facilities (''SEFs'') as a new trading platform for swaps. As a result of the enactment of sections 721 and 733, the Commission needed to amend certain recordkeeping regulations (§§ 1.31, 1.33, 1.35, 1.37, and 1.39) so that records of swap transactions are maintained analogously to how futures transactions are maintained.

Further, the ''Exclusion of Utility Operations-Related Swaps With Utility Special Entities from De Minimis Threshold for Swaps With Special Entities''[3] regulation amended the Commission's swap dealer definition to permit a person to exclude ''utility operations-related swaps'' with ''utility special entities'' in their de minimis threshold calculations. The regulation requires a person claiming the exclusion to maintain, in accordance with Commission regulation 1.31, any written representations that the person receives from utility special entities related to this exclusion.

The information collection burdens associated with these regulations (collectively, the ''Swap Recordkeeping Requirements'') are restricted to the costs associated with the recordkeeping and reporting requirements that these regulations impose upon affected registrants, registered entities, those registered entities' members, and other respondents covered by the final rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. On April 14, 2023, the Commission published in the **Federal Register** notice of the proposed

[1] 17 CFR 145.9.

[2] Adaptation of Regulations to Incorporate Swaps, 77 FR 66288 (Nov. 2, 2012).

[3] Exclusion of Utility Operations-Related Swaps with Utility Special Entities from De Minimis Threshold for Swaps with Special Entities, 79 FR 57767 (Sept. 26, 2014).

extension of this information collection and provided 60 days for public comment on the proposed extension, 88 FR 23011. The Commission received two comments. Commenter Bill Gilbert expressed support for transparent reporting of swaps and data in the financial industry, and urges the Commission to continue to take steps to ensure data access for retail investors.[4] Commenter Michael Gilbert submitted a similar comment also supporting enhanced swap data reporting for the benefit of retail investors.[5] The Commission prioritizes improved access to swaps data for retail investors, and considers a renewal of this collection to be consistent with that priority.

Burden Statement: The Commission is revising its estimate of the burden for this collection for futures commission merchants, retail foreign exchange dealers, introducing brokers, and members of designated contract markets and swap execution facilities. The respondent burden for this collection is estimated to be as follows: [6]

Estimated Number of Respondents: 13,598.[7]

Estimated Annual Burden Hours per Respondent: 148.

Estimated Total Annual Burden Hours: 2,018,728.

Frequency of Collection: As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 21, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–13527 Filed 6–23–23; 8:45 am]

BILLING CODE 6351–01–P

[4] Comment of Bill Gilbert, received April 16, 2023.

[5] Comment of Michael Gilbert, received April 16, 2023.

[6] These estimates represent the aggregate burden for all data associated with the Swap Recordkeeping Requirements in the collection, namely Swap Recordkeeping (Regulation 1.35), Swap Confirmations (Regulation 1.33), and Utility Special Entities (Regulation 1.3). Please refer to the supporting statement for further explanation of burdens associated with each regulatory requirement.

[7] This number is derived from combining the estimated number of FCMs (60), IBs (974), RFEDs (4), DCM members (11,500), and SEF members (1,000) as of March 31, 2020. The Commission acknowledges that some entities may be double-counted in this estimate. For example, an FCM may be a member of a SEF.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meetings

The Board of Directors of the Corporation for National and Community Service (operating as AmeriCorps) gives notice of the following meeting:

TIME AND DATE: Wednesday, July 19, 2023, 2 p.m.–3:30 p.m. (ET).

PLACE: 121 Avenue of the Americas, 6th Floor, New York, NY 10013. For health and safety reasons, this will be a virtual meeting for those who have been invited to give remarks and for the public.

- To register for the meeting, please use this link: *https://americorps.zoomgov.com/webinar/register/WN_wrawqlvfQeKySPS3doqFXg.*
- To participate by phone, call toll free: (833) 568–8864.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

I. Opening Remarks by the Chair

II. CEO Report

III. Oversight, Governance, and Audit Committee Report

IV. Spotlight on AmeriCorps Programs

V. Public Comment

VI. Chair's Closing Remarks and Adjournment

Members of the public who would like to comment on the business of the Board may do so in writing or virtually. Submit written comments to *board@cns.gov* with the subject line: ''Comments for July 19, 2023, AmeriCorps Board Meeting'' no later than 5 p.m. (ET) Friday, July 14, 2023. Individuals who would like to comment during the meeting will be given instructions for signing up when they join the meeting. Comments are requested to be limited to two minutes.

AmeriCorps provides reasonable accommodation to individuals with disabilities, where needed.

CONTACT PERSON FOR MORE INFORMATION: Heather Leinenbach, by telephone: (202) 489–5266 or by email: *HLeinenbach@cns.gov.*

Fernando Laguarda,

General Counsel.

[FR Doc. 2023–13549 Filed 6–22–23; 11:15 am]

BILLING CODE 6050–28–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0066]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; RSA–509, Annual Protection and Advocacy of Individual Rights Program Performance Report

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before July 26, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Samuel Pierre, 202–245–6488.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: RSA–509, Annual Protection and Advocacy of Individual Rights Program Performance Report.

OMB Control Number: 1820–0627.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 912.

Abstract: The Annual Protection and Advocacy of Individual Rights (PAIR) Program Performance Report (Form RSA–509) will be used to analyze and evaluate the PAIR Program administered by eligible protection and advocacy (P&A) systems in states and the P&A serving the American Indian Consortium. These systems provide services to eligible individuals with disabilities to protect their legal and human rights. RSA uses the form to meet specific data collection requirements of section 509(k) of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 794e(k), and its implementing Federal regulations at 34 CFR 381.32. The data reported by PAIR grantees using the form include demographic information about the individuals served, information describing the types of issues addressed through individual and systemic advocacy, and information about the results of these activities. PAIR grantees must report annually using the form that is due on or before December 30 each year.

The collection of information through Form RSA–509 is necessary for RSA to furnish the President and Congress with data on the provision of PAIR services, as required by sections 13(a) and 509(k) of the Rehabilitation Act. Data reported by PAIR grantees through the RSA–509 have also helped RSA to establish a sound basis for future funding requests. RSA also uses data from the form to evaluate the effectiveness of eligible systems within individual States and the PAIR serving the American Indian Consortium in meeting annual priorities and objectives, pursuant to section 13(b) of the Rehabilitation Act. Last, RSA has found the RSA–509 data useful in projecting trends in the provision of services from year to year.

Several respondents are private not-for-profit organizations. RSA included the respondents and the national organization that represents them (National Disability Rights Network (NDRN)) in the initial development of this collection of information in an effort to ensure that the information requested could be provided with minimal burden to the respondents.

Dated: June 21, 2023.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–13504 Filed 6–23–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Advisory Committee

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Notice of amendment.

SUMMARY: Pursuant to the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Nuclear Energy Advisory Committee's charter has been amended to include a regular Government employee designation.

FOR FURTHER INFORMATION CONTACT: Robert Rova, Alternate Designated Federal Officer at (301) 903–9096; email: *robert.rova@nuclear.energy.gov.*

SUPPLEMENTARY INFORMATION: The Committee continues to provide advice and recommendations to the Assistant Secretary for Nuclear Energy and advise on national policy and scientific aspects of nuclear issues of concern to DOE; provide periodic reviews of the various program elements within DOE's nuclear programs and recommendations based thereon; ascertain the needs, views, and priorities of DOE's nuclear programs, and advise on long-range plans, priorities, and strategies to address more effectively the technical, financial, and policy aspects of such programs; and advise on appropriate levels of resources to develop those plans, priorities, and strategies.

Additionally, the Nuclear Energy Advisory Committee has been determined to be essential to conduct Department of Energy business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy, by law and agreement. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, adhering to the rules and regulations in implementation of that Act.

Signing Authority

This document of the Department of Energy was signed on June 20, 2023, by Sarah E. Butler, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 20, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–13431 Filed 6–23–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Extended Deadline for Comments to the Notice of Intent and Request for Information: Designation of National Interest Electric Transmission Corridors; Extension of Comment Period

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: On May 15, 2022, the U.S. Department of Energy (DOE or the Department) announced the availability of a Notice of Intent and Request for Information for the Designation of National Interest Electric Transmission Corridors (NIETC) Program pursuant to the Federal Power Act (FPA). The Notice of Intent and Request for Information provided a comment period deadline for submitting written comments and information by June 29, 2023. The Department received a request from the National Association of Regulatory Utility Commissioners (NARUC) seeking a 30-day extension of the public comment period. DOE has reviewed this request and is granting an extension of the public comment period for 32 days to allow public comments to be submitted on or before July 31, 2023.

DATES: The comment period for the Notice of Intent and Request for Information for the Designation of National Interest Electric Transmission Corridors published in the **Federal Register** on May 15, 2022 (88 FR 30956) is extended. Written comments and

information are now requested on or before July 31, 2023.

ADDRESSES: Interested parties may submit comments through the Federal eRulemaking Portal at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be sent to: *NIETC@hq.doe.gov.* Questions about the Notice of Intent and Request for Information may be addressed to Molly Roy at (202) 586–2006.

SUPPLEMENTARY INFORMATION: On May 15, 2022, DOE published in the **Federal Register** a Notice of Intent and Request for Information for the Designation of NIETC Program pursuant to the FPA. 88 FR 30956. DOE seeks comments from the public and interested parties on these identified program elements and any additional program elements that should be included to assist in developing final guidelines, procedures, and evaluation criteria for the applicant-driven, route-specific NIETC designation process.

On June 7, 2023, the Department received a request from NARUC for a 30-day deadline extension to the submission deadline comments in response to the Notice of Intent and Request for Information. In its request, NARUC explained that many NARUC member commissions most interested in filing comments have limited staff to devote to federal issues with competing priorities for their time. Furthermore, NARUC stated that there is an upcoming NARUC Summer Policy Summit that could be used by members to discuss relevant issues and develop positions to submit to DOE if the comment period were extended. DOE has reviewed the request has decided to extend the deadline to allow additional time for the public to submit their comments. A limited extension of the deadline for comments to the Notice of Intent and Request for Information will not prevent the Department from advancing the NIETC designation program in a timely fashion. Therefore, the Department is extending the comment period for the Notice of Intent and Request for Information to July 31, 2023, to provide the public additional time to prepare and submit commits.

Signing Authority

This document of the Department of Energy was signed on June 20, 2023, by Maria D. Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 20, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–13429 Filed 6–23–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Advisory Committee for Nuclear Security

AGENCY: Department of Energy, National Nuclear Security Administration, Office of Defense Programs.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Advisory Committee for Nuclear Security (ACNS). The Federal Advisory Committee Act requires that public notice of meetings be announced in the **Federal Register**. Due to national security considerations, the meeting will be closed to the public and matters to be discussed are exempt from public disclosure under Executive Order 13526, and the Atomic Energy Act of 1954.

DATES: July 19, 2023; 10:00 a.m. to 3:00 p.m.

ADDRESSES: In-person meeting.

FOR FURTHER INFORMATION CONTACT: Allyson Koncke-Fernandez, Office of Policy and Strategic Planning (NA–1.1) National Nuclear Security Administration, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, (202) 287–5327; *allyson.koncke-fernandez@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The ACNS provides advice and recommendations to the Under Secretary Nuclear Security & Administrator, NNSA areas and those of the National Nuclear Security Administration.

Purpose of the Meeting: The Quarterly meeting of the Advisory Committee for Nuclear Security (ACNS) will cover the current status of Committee activities as well as additional charges and is expected to contain discussions of a sensitive nature.

Type of Meeting: In the interest of national security, the meeting will be closed to the public. The Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(d), and the Federal Advisory Committee Management Regulation, 41 CFR 102–3.155, incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at 552b(c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters will be discussed.

Tentative Agenda: Welcome; Headquarters and ACNS Updates; discussion of reports and current actions; discussion of next charges; conclusion.

Public Participation: There will be no public participation in this closed meeting. Those wishing to provide written comments or statements to the Committee are invited to send them to Allyson Koncke-Fernandez at the address listed above.

Minutes: The minutes of the meeting will not be available.

Signed in Washington, DC, on July 20, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–13472 Filed 6–23–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–92–000.

Applicants: Midway-Sunset Cogeneration Company.

Description: Supplement to May 30, 2023, Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Midway-Sunset Cogeneration Company.

Filed Date: 6/20/23.

Accession Number: 20230620–5238.

Comment Date: 5 p.m. ET 6/30/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2320–012.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: TO 18 Order on Rehearing Compliance Filing to be effective N/A.

Filed Date: 6/20/23.
Accession Number: 20230620–5202.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2179–000.
Applicants DC Energy New York, LLC.
Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5054.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2180–000.
Applicants: DC Energy Texas, LLC.
Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5057.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2181–000.
Applicants: DC Energy, LLC.
Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5058.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2182–000.
Applicants: New England Power Company.
Description: New England Power Company submits a Notice of Cancellation of the Interconnection Agreement with TransCanada Hydro Northeast Inc.
Filed Date: 6/14/23.
Accession Number: 20230614–5145.
Comment Date: 5 p.m. ET 7/5/23.
Docket Numbers: ER23–2183–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to WEIS Tariff Regarding the Market Power Test to be effective 12/31/9998.
Filed Date: 6/20/23.
Accession Number: 20230620–5071.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2186–000.
Applicants: SR DeSoto II, LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 8/4/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5089.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2188–000.
Applicants: SR DeSoto III Lessee, LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 8/4/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5094.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2189–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1895R12 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5098.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2190–000.
Applicants: SR DeSoto III, LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 8/4/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5101.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2191–000.
Applicants: Apollo Energy, LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 6/21/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5108.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2192–000.
Applicants: NN8, LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 6/21/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5112.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2193–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Cancel LA, Placerita Energy Storage Project WDT1649/SA No. 1138 to be effective 8/20/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5122.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2194–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1892R12 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5128.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2195–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–06–20_SA 2077 Termination of NSP–WAPA IA to be effective 12/31/9998.
Filed Date: 6/20/23.
Accession Number: 20230620–5129.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2196–000.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: Termination of Resurgence I LA/SA285 & 3 LGIAs/SA189–190–207 (TOT692–693–694) to be effective 8/20/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5132.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2197–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1893R13 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5141.
Comment Date: 5 p.m. ET 7/11/23.
Docket Numbers: ER23–2198–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1894R12 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5148
Comment Date: 5 p.m. ET 7/11/23.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23–51–000.
Applicants: Southwest Power Pool, Inc.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southwest Power Pool, Inc.
Filed Date: 6/16/23.
Accession Number: 20230616–5235.
Comment Date: 5 p.m. ET 7/7/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: June 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–13487 Filed 6–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–839–000.
Applicants: Equitrans, L.P.
Description: Compliance filing: Equitrans Gathering System Abandonment Project Compliance Filing to be effective 7/17/2023.
Filed Date: 6/16/23.
Accession Number: 20230616–5091.
Comment Date: 5 p.m. ET 6/28/23.

Docket Numbers: RP23–840–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Transcontinental Gas Pipeline Company, LLC submits tariff filing per 154.204: Market-Based Rates Washington Storage to be effective 7/17/2023.
Filed Date: 6/16/23.
Accession Number: 20230616–5142.
Comment Date: 5 p.m. ET 6/28/23.

Docket Numbers: RP23–841–000.
Applicants: North Baja Pipeline, LLC.
Description: § 4(d) Rate Filing: GT&C_ Early Termination Filing to be effective 7/19/2023.
Filed Date: 6/20/23.
Accession Number: 20230620–5000.
Comment Date: 5 p.m. ET 7/3/23.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: June 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–13486 Filed 6–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–197–000.
Applicants: SR DeSoto II, LLC.
Description: SR DeSoto II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5187.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: EG23–198–000.
Applicants: SR DeSoto III, LLC.
Description: SR DeSoto III, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5189.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: EG23–199–000.
Applicants: SR DeSoto III Lessee, LLC.
Description: SR DeSoto III Lessee, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5190.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: EG23–200–000.
Applicants: SR Canadaville, LLC.
Description: SR Canadaville, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5193.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: EG23–201–000.
Applicants: SR Canadaville Lessee, LLC.
Description: SR Canadaville Lessee, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5194.
Comment Date: 5 p.m. ET 7/7/23,

Docket Numbers: EG23–202–000.
Applicants: SR Lambert I, LLC.
Description: SR Lambert I, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5196.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: EG23–203–000.
Applicants: SR Lambert II, LLC.
Description: SR Lambert II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/23.
Accession Number: 20230616–5197.
Comment Date: 5 p.m. ET 7/7/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–615–001.
Applicants: Prairie State Solar, LLC.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report__Prairie State Solar, LLC to be effective N/A.
Filed Date: 6/16/23.
Accession Number: 20230616–5206.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: ER22–1815–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report__Mulligan Solar, LLC to be effective N/A.
Filed Date: 6/16/23.
Accession Number: 20230616–5204.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: ER22–1980–001.
Applicants: Deuel Harvest Wind Energy LLC.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report__Deuel Harvest Wind Energy LLC to be effective N/A.
Filed Date: 6/16/23.
Accession Number: 20230616–5205.
Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: ER22–2350–001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: NYISO Compliance Filing to FERC April 2023 Order on Compliance re: Order No. 881 to be effective 12/31/9998.

Filed Date: 6/20/23.

Accession Number: 20230620–5175.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–1773–002.

Applicants: Pomona Energy Storage 2 LLC.

Description: Tariff Amendment: Second Amendment to be effective 6/25/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5150.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–2171–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Formula Rate Filing to be effective 1/1/2024.

Filed Date: 6/16/23.

Accession Number: 20230616–5173.

Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: ER23–2172–000.

Applicants: Innovative Energy Systems, LLC.

Description: Compliance filing: Innovative Energy Systems MBR Change in Category to be effective 6/20/2023.

Filed Date: 6/16/23.

Accession Number: 20230616–5178.

Comment Date: 5 p.m. ET 7/7/23.

Docket Numbers: ER23–2173–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6956; Queue No. AE2–181 to be effective 5/23/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5040.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–2174–000.

Applicants: DC Energy California, LLC.

Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5041.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–2175–000.

Applicants: DC Energy Dakota, LLC.

Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5043.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–2176–000.

Applicants: DC Energy Mid-Atlantic, LLC.

Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5046.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–2177–000.

Applicants: DC Energy Midwest, LLC.

Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5048.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER23–2178–000.

Applicants: DC Energy New England, LLC.

Description: Tariff Amendment: Notice of Cancellation of FERC Electric Tariff, Volume No. 1 to be effective 6/21/2023.

Filed Date: 6/20/23.

Accession Number: 20230620–5051.

Comment Date: 5 p.m. ET 7/11/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: June 20, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–13488 Filed 6–23–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0070; FRL–10841–05–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients May 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before July 26, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0070, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–1400, email address: *BPPDFRNotices@epa.gov;* or Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (*https://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions*).

A. Notice of Receipt—New Active Ingredients

1. *EPA File Symbols.* 100–RTGI (Spiropidion Technical) and 100–RTGO (A20262 Insecticide). (EPA–HQ–OPP–2022–0899). *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Spiropidion. *Product type:* Insecticide. *Proposed uses:* Apple, dry pomace; cattle, meat; citrus fruit, crop group 10–10; cotton, gin byproducts; cottonseed, crop subgroup 20C; cucumber; fruit, pome, crop group 11–10; goat, meat; horse, meat; orange, fruit, citrus oil; sheep, meat; small fruit vine climbing, (except fuzzy kiwifruit), crop subgroup 13–07F; soybean; vegetables, tuberous and corm, crop group 1C; vegetables, *brassica,* head and stem, crop group 5–16; vegetables, cucurbit, crop group 9 (including commercially grown greenhouse cucumber); vegetables, fruiting, crop group 8–10 (including commercially grown greenhouse tomato, pepper, and eggplant); vegetables, leafy, crop subgroup 4–16B (except watercress); and vegetables, tuberous and corm, crop group 1C. *Contact:* RD.

2. *EPA Registration Number:* 264–REEL, 264–REEA. *Docket ID number:* EPA–HQ–OPP–2022–0980. *Applicant:* Bayer CropScience, 800 N Lindbergh Blvd., St. Louis, MO 63167. *Active ingredient:* Fluoxapiprolin. *Product type:* Fungicide. *Proposed use:* Tuberous and corm vegetables subgroup 1C; onion, bulb subgroup 3–07A; onion, green subgroup 3–07B; leafy vegetable group 4–16; brassica head and stem vegetable group 5–16; fruiting vegetable group 8–10; cucurbit vegetable group 9; small fruit vine climbing subgroup 13–07F, except fuzzy kiwifruit; leafy petiole vegetable subgroup 22B. *Contact:* RD.

3. *File Symbol:* 59639–EAE. *Docket ID number:* EPA–HQ–OPP–2022–0354. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583. *Product name:* S–3100 0.46 EC Herbicide. *Active ingredient:* Herbicide—Epyrifenacil at 5.39%. *Proposed use:* Canola, field corn, soybean, wheat, fallow land, and non-crop areas. *Contact:* RD.

4. *File Symbol:* 59639–EAG. *Docket ID number:* EPA–HQ–OPP–2022–0354. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583. *Product name:* V–10488 0.94 SE Herbicide. *Active ingredient:* Herbicide—Epyrifenacil at 1.09%, flumioxazin at 4.74%, and pyroxasulfone at 4.91%. *Proposed use:* Soybean, spring wheat, fallow land, and non-crop areas. *Contact:* RD.

5. *File Symbol:* 59639–EAL. *Docket ID number:* EPA–HQ–OPP–2022–0354. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583. *Product name:* S–3100 technical herbicide. *Active ingredient:* Herbicide—Epyrifenacil at 98%. *Proposed use:* Canola, field corn, soybean, and wheat. *Contact:* RD.

6. *File Symbol:* 59639–EAU. *Docket ID number:* EPA–HQ–OPP–2022–0354. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583. *Product name:* V–10489 1.525 SE herbicide. *Active ingredient:* Herbicide—Epyrifenacil at 1.05%, mesotrione at 11.1%, and pyroxasulfone at 4.77%. *Proposed use:* Corn. *Contact:* RD.

7. *File Symbol:* 68539–EE. *Docket ID number:* EPA–HQ–OPP–2023–0255. *Applicant:* BioWorks, Inc., 100 Rawson Road, Suite 205, Victor, NY 14564. *Product name:* BW149 WPO. *Active ingredient:* Insecticide and miticide—*Beauveria bassiana* strain BW149 at 21%. *Proposed use:* For use on indoor and outdoor agricultural crops, ornamentals, and in woodland/nature areas/animal habitats to control insect and mite pests. *Contact:* BPPD.

8. *File Symbol:* 68539–EN. *Docket ID number:* EPA–HQ–OPP–2023–0255. *Applicant:* BioWorks, Inc., 100 Rawson Road, Suite 205, Victor, NY 14564. *Product name:* BW149 ESO. *Active ingredient:* Insecticide and miticide—*Beauveria bassiana* strain BW149 at 12%. *Proposed use:* For use on indoor and outdoor agricultural crops, ornamentals, and in woodland/nature areas/animal habitats to control insect and mite pests. *Contact:* BPPD.

9. *File Symbol:* 68539–ER. *Docket ID number:* EPA–HQ–OPP–2023–0255. *Applicant:* BioWorks, Inc., 100 Rawson Road, Suite 205, Victor, NY 14564. *Product name:* BW149 Technical. *Active ingredient:* Insecticide and miticide—*Beauveria bassiana* strain BW149 at 100%. *Proposed use:* For manufacturing pesticide products. *Contact:* BPPD.

10. *File Symbol:* 96029–E. *Docket ID number:* EPA–HQ–OPP–2023–0221. *Applicant:* Agrotecnologías Naturales S.L. Ctra.T–214, s/n Km 4,125 43762 Riera de Gaià La Tarragona Spain (c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192). *Product name:* TRICOTEN WP. *Active ingredient:* Fungicide—*Trichoderma atroviride* AT10 at 10%. *Proposed use:* For control of fungal diseases on field tomatoes, lettuce, and grapevine, tomatoes in greenhouses, and for use as a seed

treatment for cereal grains. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 13, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–13426 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0067; FRL–10578–05–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Uses May 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before July 26, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0067, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

A. Notice of Receipt—New Uses

1. *EPA Registration Number:* 279–3637, 279–3638, 279–3639, 279–3640, 279–3641, 279–3642, 279–3643. *Docket ID number:* EPA–HQ–OPP–2023–0062. *Applicant:* FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. *Active ingredient:* Fluindapyr. *Product type:* Fungicide. *Proposed use:* Soybean, sod farms, and turf and ornamentals in residential areas. *Contact:* RD.

2. *EPA Registration Numbers:* 279–9586, 279–9597, 279–9598, 279–9629, 279–9596. *Docket ID number:* EPA–HQ–OPP–2023–0079. *Applicant:* The IR–4 Project, NC State University, Campus Box 7710, Raleigh, NC 27695. *Active ingredient:* Indoxacarb. *Product type:* Insecticide. *Proposed use:* New uses on coffee; strawberry; sunflower subgroup 20B; crop group expansions to cottonseed subgroup 20C; edible podded bean subgroup 6–22A; field corn subgroup 15–22C; pulses, dried shelled bean, except soybean, subgroup 6–22E; succulent shelled bean subgroup 6–22C; sweet corn subgroup 15–22D; crop group conversions to brassica, leafy greens subgroup 4–16B; fruit, pome, group 11–10 except pear; fruit, stone, group 12–12; leaf petiole vegetable subgroup 22B; leafy greens subgroup 4–16A; pear, Asian; vegetable, brassica, head and stem group 5–16; and vegetable fruiting, group 8–10 including tolerances for the orphan crops celtuce; chickpea, dry seed; fennel, Florence, fresh leaves and stalk; and kohlrabi. *Contact:* RD.

3. *EPA Registration Number:* 7969–402 and 7969–405. *Docket ID number:* EPA–HQ–OPP–2023–0238. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Mefentrifluconazole. *Product type:* Fungicide. *Proposed use:* Seed treatment on legume vegetable group (crop group 6–22). *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 14, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–13482 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–02–2023–2024; FRL–11050–01–R2]

Proposed CERCLA Cost Recovery Settlement for the Marko Engraving & Art Corp. Site, Located at 429–439 Fairview Avenue, Fairview, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''),

notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement (''Settlement'') pursuant to CERCLA with Ljubow Melnitschenko (''Settling Party'') for the Marko Engraving & Art Corp. Site (''Site''), located at 429–439 Fairview Avenue, Fairview, New Jersey.

DATES: Comments must be submitted on or before July 26, 2023.

ADDRESSES: The proposed settlement is available for public inspection at the following website: *https://semspub.epa.gov/src/document/02/677072.* Requests for copies of the proposed Settlement and submission of comments must be via electronic mail to Olga Pappas at *pappas.olga@epa.gov.* Comments should reference the Marko Engraving & Art Corp. Site, Index No. CERCLA–02–2023–2024. For those unable to communicate via electronic mail, please contact Olga Pappas at the telephone number identified below.

FOR FURTHER INFORMATION CONTACT: Olga Pappas, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *pappas.olga@epa.gov.* Telephone: 212–637–3138.

SUPPLEMENTARY INFORMATION: Under the proposed Settlement, Settling Party will pay $225,000 to the EPA Hazardous Substance Superfund to resolve her potential liability for EPA's past response costs paid in connection with the Site. Payment is to be made upon Settling Party selling three properties. Settling Party will pay EPA from the proceeds of the sales. In exchange for Settling Party's payment, the Settlement provides a covenant not to sue or take administrative action against Settling Party, and will release the Federal lien on the Site property arising under section 107(l) of CERCLA, 42 U.S.C. 9607(l).

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Settlement. EPA will consider all comments received and may modify or withdraw its consent to the proposed Settlement if comments received disclose facts or considerations that indicate that the proposed Settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Pasquale Evangelista,

Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2023–13525 Filed 6–23–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 149975]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to modify an existing system of records, FCC/OIG–3, Investigative and Audit Files (formerly: FCC/OIG–3, Investigative Files) subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The FCC uses the investigative and audit files contained in the records in this system to carry out its duties and responsibilities under the Inspector General Act of 1978, as amended. This modification changes the scope of this system of records to add new routine uses, to update the exemptions the FCC claims for this system, and to make other changes.

DATES: This modified system of records will become effective on June 26, 2023. Written comments on the routine uses are due by July 26, 2023. The routine uses will become effective on July 26, 2023, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Katherine C. Clark, Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Katherine C. Clark, (202) 418–1773, or *privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the proposed alterations to this system of records).

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed modification of a system of records maintained by the FCC. This notice modifies a system of records (FCC/OIG–3) maintained by the FCC. The FCC previously provided notice of the system of records FCC/OIG–3, Investigative and Audit Files, by publication in the **Federal Register** on August 26, 2011 (76 FR 53454). The FCC Office of Inspector General (OIG) created this system of records in 2011 by combining into a single system of records the OIG's criminal and civil investigative files and its audit files. OIG uses the records in this system to carry out its duties and responsibilities under the Inspector General Act of 1978, as amended.

The substantive changes and modifications to the previously published version of FCC/OIG–3 include:

1. Renaming this SORN as ''Investigative and Audit Files'';

2. Modifying the language in the Categories of Individuals and Categories of Records to be consistent with the language and phrasing now used in FCC SORNs;

3. Updating and/or revising language in the following routine uses: Law Enforcement and Investigation, Adjudication and Litigation, Disclosure to the Council of Inspectors General on Integrity and Efficiency (CIGIE), Disclosure for Qualitative Assessment Reviews, and Breach Notification;

4. Adding four new routine uses: (a) Assistance to Federal Agencies and Entities Related to Breaches—to assist with other Federal agencies' data breach situations, which is required by OMB Memorandum No. M–17–12; (b) Non-Federal Personnel—to allow contractors, grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement with access to information; (c) To provide information to a Congressional member's office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual; and (d) Congress, congressional committees, or the staffs thereof—to provide Congress, congressional committees and congressional staff access to final FCC–OIG reports or management alerts when the Inspector General (IG) determines that its disclosure is necessary to fulfill the IG's responsibilities under the IG Act of 1978, as amended;

5. Updating the existing records retention and disposal schedule with a new National Archives and Records Administration (NARA) Records Schedule: Office of Inspector General (OIG)—Investigative Files, N1–173–07–

002, which was approved by NARA in May 2017;

6. Expanding the scope of the system to expressly include materials related to OIG audits that may contain information about individuals; and

7. Updating the reference to the exemptions claimed under subsections (j) and (k) of the Privacy Act.

The system of records is also updated to reflect various administrative changes related to the system managers and system addresses; policies and practices for storage and retrieval of the information; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER:

FCC/OIG–3, Investigative and Audit Files.

SECURITY CLASSIFICATION:

Sensitive, but not Classified.

SYSTEM LOCATION:

OIG, FCC, 45 L Street NE, Washington, DC 20554, and OIG, FCC, 9201 Farm House Lane, Columbia, MD 21046.

SYSTEM MANAGER(S):

Johnny Drake, OIG, FCC, 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended. 5 U.S.C. app.

PURPOSE(S) OF THE SYSTEM:

This system will collect, pursuant to the Inspector General Act of 1978:

1. Files and documents for investigations initiated and/or referred by or to the OIG or other investigative agencies regarding FCC programs and operations; and reports regarding the results of investigations to other Federal agencies, other public authorities, or professional organizations that have the authority to bring criminal prosecutions or civil or administrative actions, or to impose other disciplinary sanctions;

2. Files and documents for documenting the outcome of OIG investigations;

3. Records of the activities that were the subject of investigations;

4. Reports, files, and documents for investigative findings to the Commission management about problems and deficiencies in the FCC's programs and operations or to suggest corrective action in reference to identified irregularities, problems, or deficiencies;

5. Records of complaints and allegations received relative to FCC programs and operations and documenting the outcome of OIG reviews of those complaints and allegations;

6. Files and documents for coordinating relationships with other Federal agencies, State and local governmental agencies, and nongovernmental entities in matters relating to the statutory responsibilities of the OIG;

7. Files and documents providing the information necessary to fulfill the reporting requirements of the Inspector General Act of 1978;

8. Files and documents for audits, inspections and evaluations, and surveys conducted by the OIG regarding FCC programs and operations; and

9. Documents for the results of audits, inspections, evaluations and surveys initiated internally or mandated or requested by Congress or other regulatory agencies regarding FCC programs and operations and reporting the results of audits to Congress, Office of Management and Budget (OMB), Government Accountability Office (GAO), and other regulatory and oversight agencies.

Collecting and maintaining these types of information is necessary for key activities discussed in this SORN, including analyzing the effectiveness and efficiency of FCC programs, informing future rulemaking and policymaking activity, and improving staff efficiency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals who are or have been the subjects of investigations conducted by the OIG;

2. Individuals who are: witnesses, complainants, informants, suspects, defendants, parties identified by the OIG or by other agencies, constituent units of the FCC and members of the general public in connection with the authorized functions of the OIG; and

3. Individuals who provide information during interviews, walkthroughs, questionnaires, demonstrations, and simulations during OIG audits, inspections, and evaluations.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Files developed during investigations of: known or alleged fraud, waste, and abuse; other irregularities; or violations of laws, regulations, orders, or requirements;

2. Files related to programs and operations administered or financed by the FCC, including contractors and others doing business with the FCC;

3. Files relating to FCC employees' hotline complaints and other miscellaneous complaints;

4. Investigative reports and related documents, such as correspondence, notes, attachments, and working papers; and

5. Audit reports and supporting documentation, such as correspondence, memoranda, transcripts, notes, computations, flowcharts, illustrations and summaries.

RECORD SOURCE CATEGORIES:

Under the authority granted to heads of agencies by 5 U.S.C. 552a(j)–(k), the FCC has determined that this system of records is exempt from disclosing the categories of sources of records for this system of records, 47 CFR 0.561.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside of the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Law Enforcement and Investigation—Where there is an indication of a violation or potential violation of a statute, regulation, rule, order, or other requirements, records from this system may be shared with appropriate Federal, State, Tribal, or local authorities for purposes of either obtaining additional information relevant to a FCC decision or referring the record for investigation, enforcement, or prosecution by another agency.

2. Disclosure to Public and Private Entities to Obtain Information Relevant to FCC Functions and Duties—The OIG may disclose information from this system to public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, inspection, or audit.

3. Litigation—To disclose records to the Department of Justice (DOJ) when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the

purpose for which the FCC collected the records.

4. Adjudication—To disclose records in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

5. Disclosure to Contractors and Consultants—OIG may disclose a record from this system to the employees of any entity or individual with whom the FCC contracts for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Before entering into such a contract, the OIG shall require the contractor to maintain Privacy Act safeguards, including as required under the Federal Acquisition Regulations (FAR) Privacy Act provisions (subparts 24.1 and 24.2) and include the specified contract clauses (parts 52.224–1 and 52.224–2), as appropriate, to ensure that personal information by contractors who work on FCC-owned systems of records and the system data are protected as mandated.

6. Debarment and Suspension Disclosure—The OIG may disclose information from this system to the FCC or another Federal agency considering suspension or debarment action if the information is relevant to the suspension or debarment action. The OIG also may disclose information to the FCC or another agency to gain information in support of the FCC's own debarment and suspension actions.

7. Government-Wide Program Management and Oversight—The OIG may disclose a record from this system to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or the OMB to obtain that office's advice regarding obligations under the Privacy Act.

8. Prevention of Fraud, Waste, and Abuse Disclosure—The OIG may disclose a record from this system to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC has a contract, service agreement, cooperative agreement, or computer matching agreement for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC provides information under this routine use.

9. Disclosure to CIGIE—The OIG may disclose a record from this system to members and employees of CIGIE for the preparation of reports to the President and Congress on the activities of the Inspectors General.

10. Disclosure for Qualitative Assessment Reviews—The OIG may disclose a record from this system to members of CIGIE, the DOJ, the U.S. Marshals Service, or any Federal agency for the purpose of conducting qualitative assessment reviews of the investigative operations of the OIG to ensure that adequate internal safeguards and management procedures are maintained.

11. Breach Notification—To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of PII maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

12. Assistance to Federal Agencies and Entities Related to Breaches—To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

13. Non-Federal Personnel—To disclose information to non-Federal personnel, including contractors, grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

14. To provide information to a Congressional member's office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual.

15. To Congress, congressional committees, or the staffs thereof once an FCC–OIG report or management alert has become final and the IG determines that its disclosure is necessary to fulfill the IG's responsibilities under the IG Act of 1978, as amended.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system consists of paper records, documents, and files in file folders and electronic records, files, and data that are stored in the OIG databases that are part of the FCC's computer network. Electronic records may also be contained in databases that are not part of FCC's computer network, and also are stored in removable drives, computers, and other electronic databases.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by any category field, *e.g.,* first name or email address, or by a unique file number assigned to each matter.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) Records Schedule: Office of Inspector General (OIG)—Investigative Files, N1–173–07–002, Item 1.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The paper, diskette, and records contained in other media are password protected or kept in locked storage that is further secured at the end of each business day. Limited access to these records is permitted by those persons whose official duties require such

access; thus, unauthorized examination during business hours would be easily detected.

The electronic records, files, and data are maintained in the FCC computer network databases. Access to the electronic files is restricted to authorized OIG supervisors and staff. Authorized OIG staff and OIG contractors and authorized staff and contractors in the FCC's Information Technology Center (ITC) have access to the electronic files on an ''as needed'' basis. Backup media are stored on-site and at a secured, off-site location. The FCC's computer network databases are protected by the FCC's security protocols, which include controlled access, passwords, and other security features to prevent unauthorized users from gaining access to the data and system resources. This comprehensive and dynamic set of IT safety and security protocols and features is designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), OMB, and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Under the authority granted to heads of agencies by 5 U.S.C. 552a(j)–(k), the FCC has determined that this system of records is exempt from disclosing its record access procedures for this system of records, 47 CFR 0.561.

CONTESTING RECORD PROCEDURES:

Under the authority granted to heads of agencies by 5 U.S.C. 552a(j)–(k), the FCC has determined that this system of records is exempt from disclosing its contesting record procedures for this system of records, 47 CFR 0.561.

NOTIFICATION PROCEDURES:

Under the authority granted to heads of agencies by 5 U.S.C. 552a(j)–(k), the FCC has determined that this system of records is exempt from the notification procedure for this system of records. 47 CFR 0.561.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to subsection 0.561 of the Commission's rules, 47 CFR 0.561, this system of records is exempt from §§ (c)(3), (c)(4), (d), (e)(1) through(3), (e)(4)(G) through(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act and from 47 CFR 0.554–0.557 of the Commission's rules. These provisions concern individuals' rights to access and amend information about themselves, and an agency's duties to provide notice about how individuals can access information about themselves. The system is exempt from these provisions because it contains the types of materials described in subsections (j)(2) and (k)(1)–(2) of the Privacy Act.

HISTORY:

The FCC created this system of records (OIG–3) in 2011 by combining into a single system of records the OIG's criminal and civil investigative files, 76 FR 53454 (Aug. 26, 2011).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2023–13512 Filed 6–23–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2023–11]

Filing Dates for the Utah Special Election in the 2nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Utah has scheduled a Special General Election on November 21, 2023, to fill the U.S. House of Representatives seat in the 2nd Congressional District being vacated by Representative Chris Stewart. A Special Primary Election, if necessary, will be held on September 5, 2023. Under Utah law, partisan candidates can seek nomination at their party's convention and/or gather signatures to appear on the primary election ballot. Political committees participating in the Utah special elections are required to file pre- and post-election reports. Filing deadlines for these reports are affected by whether one or two elections are held.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Special Primary Election

All principal campaign committees of candidates *only* participating in the Utah Special Primary, if necessary, shall file a Pre-Primary Report on August 24, 2023. (See charts below for the closing date for the report).

Special Primary and General Elections

If two elections are held, all principal campaign committees of candidates participating in the Utah Special Primary and Special General Elections shall file a Pre-Primary Report on August 24, 2023; a Pre-General Report on November 9, 2023; and a Post-General Report on December 21, 2023. (See charts below for the closing date for each report).

Special General Election

All principal campaign committees of candidates *only* participating in the Utah Special General shall file a Pre-General Report on November 9, 2023; and a Post-General Report on December 21, 2023. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Utah Special Primary or Special General Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Utah Special Primary or Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Utah special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $21,800 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR UTAH SPECIAL ELECTIONS

Report	Close of books [1]	Reg./Cert. and overnight mailing deadline	Filing deadline
Campaign Committees Involved in *Only* the Special Primary (09/05/2023) Must File:			
Pre-Primary	08/16/2023	08/21/2023	08/24/2023
October Quarterly	09/30/2023	10/15/2023	10/15/2023 [2]
PACs and Party Committees Not Filing Monthly Involved in *Only* the Special Primary (09/05/2023) Must File:			
Pre-Primary	08/16/2023	08/21/2023	08/24/2023
Year-End	12/31/2023	01/31/2024	01/31/2024
If Two Elections Are Held, Campaign Committees Involved in Both the Special Primary (09/05/2023) and the Special General (11/21/2023) Must File:			
Pre-Primary	08/16/2023	08/21/2023	08/24/2023
October Quarterly	09/30/2023	10/15/2023	10/15/2023 [2]
Pre-General	11/01/2023	11/06/2023	11/09/2023
Post-General	12/11/2023	12/21/2023	12/21/2023
Year-End	12/31/2023	01/31/2024	01/31/2024
If Two Elections Are Held, PACs and Party Committees Not Filing Monthly Involved in Both the Special Primary (09/05/2023) and the Special General (11/21/2023) Must File:			
Pre-Primary	08/16/2023	08/21/2023	08/24/2023
Pre-General	11/01/2023	11/06/2023	11/09/2023
Post-General	12/11/2023	12/21/2023	12/21/2023
Year-End	12/31/2023	01/31/2024	01/31/2024
Campaign Committees Involved in *Only* the Special General (11/21/2023) Must File:			
Pre-General	11/01/2023	11/06/2023	11/09/2023
Post-General	12/11/2023	12/21/2023	12/21/2023
Year-End	12/31/2023	01/31/2024	01/31/2024
PACs and Party Committees Not Filing Monthly Involved in *Only* the Special General (11/21/2023) Must File:			
Pre-General	11/01/2023	11/06/2023	11/09/2023
Post-General	12/11/2023	12/21/2023	12/21/2023
Year-End	12/31/2023	01/31/2024	01/31/2024

Dated: June 20, 2023.

On behalf of the Commission,

Dara S. Lindenbaum,

Chair, Federal Election Commission.

[FR Doc. 2023–13437 Filed 6–23–23; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1788]

Guidelines for Evaluating Account and Services Requests

AGENCY: Board of Governors of the Federal Reserve System. ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is withdrawing proposed amendments to its Guidelines for Evaluating Account and Services Requests (Account Access Guidelines) that would have required the Federal Reserve Banks (Reserve Banks) to publish a periodic list of depository institutions with access to Reserve Bank accounts and/or financial services. Because a new section 11C of the Federal Reserve Act (the Act) was recently enacted that requires disclosures substantially similar to those in the Board's proposal, the Board believes finalizing the proposed amendments to its Account Access Guidelines is unnecessary.

DATES: The Board is withdrawing the proposal published November 16, 2022 (87 FR 68691) as of June 16, 2023.

FOR FURTHER INFORMATION CONTACT: Jason Hinkle, Assistant Director (202–912–7805), Division of Reserve Bank Operations and Payment Systems; or Corinne Milliken Van Ness, Senior Counsel (202–452- 2421) or Gavin Smith, Senior Counsel (202–452–3474); for users of TTY–TRS, please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Background

A. Board's Proposed Amendments to the Account Access Guidelines

On November 16, 2022, the Board published proposed amendments to its Account Access Guidelines that would have required disclosure of institutions with access to Reserve Bank accounts and/or financial services (accounts and services).[1] This information historically

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed on paper by methods other than registered, certified or overnight mail must be received before the Commission's close of business on the last business day before the deadline.

[1] *See* 87 FR 68691.

has not been disclosed publicly. The development and publication of the Account Access Guidelines, however, prompted the Board to consider the potential benefits of disclosing the names of institutions that have access to accounts and services.

The Board proposed for public comment a requirement for Reserve Banks to publish periodically a list of depository institutions with access to accounts and services, including whether each depository institution with access to accounts and services is federally insured and in which Reserve Bank district the depository institution is located. In addition, the Board proposed to have the Reserve Banks publish a list of depository institutions that have, since the prior publication, received access to accounts and services or no longer have access to accounts and services.[2]

B. Subsequent Amendment to the Federal Reserve Act

Subsequent to the publication of the proposal, the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 amended the Act by adding a new Section 11C. New Section 11C of the Act requires the Board, not later than 180 days after December 23, 2022, to create and ''maintain a public, online and searchable database'' of entities that have, or that are requesting, account and service access, along with the status of any request for an account and services.[3] For each entity that has, or is requesting access to, accounts and services, new Section 11C of the Act also requires the database to indicate if the entity is a federally insured bank or credit union or a non-federally insured depository institution.

II. Notice That the Board Will Not Adopt the Proposed Amendments to the Account Access Guidelines

The Board has determined that the disclosure requirements in the Act's new Section 11C substantially supplant the Board's proposal to incorporate a disclosure requirement into the Account Access Guidelines. Therefore, the Board will not adopt its proposed amendments to the Account Access Guidelines.

By order of the Board of Governors of the Federal Reserve System.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2023–13460 Filed 6–23–23; 8:45 am]

BILLING CODE P

[2] The Board proposed that the list of depository institutions that no longer have access to accounts and/or services would include both depository institutions that lost access to accounts and services and those that gave up their access to accounts and services voluntarily.

[3] *See* 12 U.S.C. 248c. The new Section 11C excludes official accountholders from the list of entities published on the database and defines ''Official accountholders'' as foreign states (as defined in section 25B of the Act), central banks (as defined in section 25B of the Act) other than a commercial bank, public international organizations entitled to enjoy privileged examples and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288 *et seq.*), and any governmental entity for which the Secretary of Treasury has directed a Reserve Bank to receive deposits as fiscal agent of the United States under section 15 of the Act.

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2023–03; Docket No. 2023–0002; Sequence No. 20]

Notice of Availability for the Record of Decision of the Environmental Impact Statement for the U.S. Food and Drug Administration, Muirkirk Road Campus Master Plan in Laurel, Maryland

AGENCY: Public Buildings Service (PBS), National Capital Region, General Services Administration (GSA).

ACTION: Notice.

SUMMARY: GSA issued a Record of Decision (ROD) for the Food and Drug Administration (FDA) Muirkirk Road Campus (MRC) Master Plan, in Laurel, Maryland, on June 16, 2023. The ROD was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations, and the GSA PBS NEPA Desk Guide.

DATES: *Applicable:* Friday, June 16, 2023.

FOR FURTHER INFORMATION CONTACT: Lindsey Veas, GSA, National Capital Region, PBS, Office of Planning and Design Quality, at 202–262–9236.

SUPPLEMENTARY INFORMATION:

Background

The General Services Administration, in cooperation with the FDA, has prepared a Master Plan for the MRC in Laurel, Maryland. The MRC Master Plan creates a framework to guide development and add capacity over the course of next 10 to 30 years. The FDA owns 249 acres of land at Muirkirk Road. The MRC West Parcel comprises 197 acres west of Odell Road. The remaining 52 acres makes up the MRC East Parcel located east of Odell Road. The FDA acquired the land for the Beltsville Research Facility (BRF) from the U.S. Department of Agriculture (USDA) in 1964. Today, the MRC is home to the Center for Veterinary Medicine (CVM), the Center for Food Safety and Applied Nutrition (CFSAN), and support staff.

Previous master plans approved by National Capital Planning Commission (NCPC) and Prince George's County include the 1966 Site Development Plan and the 1981 Master Plan. The MRC's current population is 300 employees; the 1966 and 1981 Master Plans limited future population growth to 1,800 employees. The MRC Master Plan evolved throughout the master planning process that began in September 2020. Initially, the Draft Master Plan included two phases of office buildings without any laboratories. The first phase accommodates 700 additional staff, and the second phase 800 additional staff, bringing the total campus population up to 1,800.

As a result of the COVID–19 pandemic, the workplace environment has gone through a fundamental change with a higher percentage of people working remotely. The FDA adopted the U.S. Department of Health and Human Services (HHS) 21st Century Workplace Space Planning Policy. Under this policy, a new workplace model based on increased telework provides efficient use of space and significantly reduces rent and rent related costs. Moving forward, HHS's policy is to provide dedicated workstations and offices only for staff who report to an office six or more days per pay period. Shared workstations and offices will be available for employees who predominantly telework fewer than six days per pay period. Based on current trends in teleworking, FDA's White Oak campus has significant capacity to absorb future growth and consolidation of FDA employees within the DC metropolitan area from leased space as the leases expire. For laboratory employees, remote work is not possible due to the nature of the work and existing laboratories at FDA's White Oak Campus are fully occupied. Therefore, FDA shifted its focus for the MRC from mostly new office space to also increasing the amount of laboratory space.

The Master Plan provides a framework for development at the MRC to accommodate up to 1,800 FDA employees and support staff. GSA completed an EIS that assessed the impacts of the population increase and additional growth needed on the MRC to support the increased population.

Preferred Alternative

GSA has chosen to implement Alternative B: Dual Campus, as defined in the Final EIS (GSA, April 2023). This decision is based on analyses contained in the MRC Master Plan Draft EIS issued

in December 2020, the MRC Master Plan Final EIS issued in April 2023, and the comments of Federal and State agencies, stakeholder organizations, members of the public and elected officials and other information in the Administrative Record.

Implementation of Alternative B will be distributed between the MOD 1 and MOD 2 buildings and the Beltsville Research Facility (BRF) site. Alternative B has been broken out into three phases which include:

- Phase 1—construction of an approximate 18,000-square-foot annex to the MOD 2 building. The population at the MRC West Parcel will remain at 300. The annex building will accommodate both staff from the BRF and the renovation occurring within MOD 2.
- Phase 2—construction of two laboratory buildings that will accommodate 168 scientists and support staff in approximately 168,000 gross square feet (gsf) of lab space and 6,300 gsf of special use space. Phase 2 includes the removal of the surface parking lot adjacent to MOD 1 and the construction of a parking garage with 235 spaces. An approximate 10,000 gsf maintenance/storage building adjacent to the new parking garage will also be built. Phase 2 will include maintaining the metal warehouse building and fitness center at the BRF, creating a temporary surface lot on the BRF site, and constructing a new entrance to Odell Road for truck screening. A visitor parking lot will be constructed and the Muirkirk Road entrance will be rebuilt with a shared drop-off.
- Phase 3—construction of two office buildings that will accommodate a population of 1,332 and shared use space to support the campus. The two new office buildings will be constructed on the site of the BRF. The total gross area is approximately 166,500 gsf of office space and 24,5000 gsf of special use space. This phase will also include a four-level parking garage for 665 spaces. Additionally, during Phase 3, temporary parking and all remaining existing buildings at the BRF site will be removed.

An elevated boardwalk will be constructed within the natural landscape that will connect the laboratory buildings with the office buildings. A skybridge between the laboratory and office buildings will encourage collaboration. Alternative B will also include space for shared amenities including a conference center, cafeteria, and fitness center.

Alternative B is necessary to continue to guide future long-term development of the MRC. Alternative B highlights views, improves connectivity and walkability, and conserves the natural landscape. Alternative B is in line with the Master Plan as both aim to:

- maintain a 100-foot landscape buffer along the perimeter of the campus,
- set the buildings back at least 75 feet from the interior roadways,
- respect the woodlands as much as possible and make them accessible for employees,
- create new view corridors into the woodlands at the heart of the campus,
- avoid development and human interference in the pasture areas as these are being used by FDA for research and the preservation of open space,
- connect the existing and Phase 2 buildings through a continuous service corridor,
- allow people to move between new buildings through a physical connection that protects them from the elements, and
- conserve the stream valleys and natural drainage patterns

Location of Record of Decision

The ROD can be found on GSA's project website at *www.gsa.gov/ncrnepa.*

Mydelle Wright,

Director, Office of Planning and Design Quality, Public Buildings Service, National Capital Region, General Services Administration.

[FR Doc. 2023–13438 Filed 6–23–23; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10861 and CMS–10137]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 25, 2023.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number:_____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10861—Health Insurance Common Claims Form

CMS–10137—Solicitation for Applications for Medicare prescription Drug Plan 2025 Contracts

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Medicare Health Outcomes Survey Field Test; *Use:* CMS is required to collect and report quality and performance of Medicare health plans under provisions of the Social Security Act. Specifically, section 1851(d) of the Act (Providing Information to Promote Informed Choice) requires CMS to collect data for MA plan comparison, including data on enrollee satisfaction and health outcomes, and report this information and other plan quality and performance indicators to Medicare beneficiaries prior to the annual enrollment period. The HOS meets the requirement for collecting and publicly reporting quality and other performance indicators, as HOS survey measures are incorporated into the Medicare Part C Star Ratings that are published each fall for consumers on the Medicare website.

This request is to conduct a field test with the goal of evaluating the measurement properties of new survey items, and the effects of new content and a web-based mode on response patterns and measure scores as compared to existing HOS survey items and protocols. Within each of the proposed field test protocol arms, there will be two versions of the questionnaire (see Attachments A and B) that will be identical except for slight differences in selected items where empirical data are needed to ascertain which of the two versions produces the best results (see Attachment C). The two versions of the questionnaire will test alternatives for selected new survey content that will potentially enhance and refine existing measures, allow CMS to develop new and methodologically simpler cross-sectional and longitudinal measures, expand on CMS's measurement of physical functioning and mental health, and add to CMS's efforts to measure and address health equity.

The data collected in this field test will be used by CMS to inform decisions on possible changes to HOS content and survey administration procedures. The items in the questionnaire reflect current health priorities and would provide CMS with data to study new longitudinal PROMs, cross-sectional measures, and enhancements to existing HOS measures for MA plans to use as a focus of their quality improvement efforts. Potential new measures derived from new HOS items will go through the Measures Under Consideration (MUC) process and rule-making before they are added to Star Ratings. *Form Number:* CMS–10861 (OMB Control Number: 0938–New); *Frequency:* Once; *Affected Public:* Individuals and Households; *Number of Respondents:* 136; *Number of Responses:* 6,800; *Total Annual Hours:* 1,700. (For policy questions regarding this collection contact Kimberly DeMichele at 410–786–4286.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare prescription Drug Plan 2025 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application.

Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) in Subpart 3. The application requirements are codified in subpart K of 42 CFR 423 entitled ''Application Procedures and Contracts with PDP Sponsors.''

The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, Program of All-Inclusive Care for the Elderly (PACE), and EGWP applicants. The collected information will be used by CMS to: (1) ensure that applicants meet CMS requirements for offering Part D plans (including network adequacy, contracting requirements, and compliance program requirements, as described in the application), (2) support the determination of contract awards. *Form Number:* CMS–10137 (OMB Control Number: 0938–0936); *Frequency:* Yearly; *Affected Public:* Private sector, business or other for-profit and not-for-profit institutions; *Number of Respondents:* 795; *Number of Responses:* 433; *Total Annual Hours:* 1,839. (For policy questions regarding this collection contact April Forsythe at 410–786–8493.)

Dated: June 21, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–13517 Filed 6–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–2034]

Alternative Procedures for the Manufacture of Cold-Stored Platelets Intended for the Treatment of Active Bleeding When Conventional Platelets Are Not Available or Their Use Is Not Practical; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of an immediate in effect guidance entitled ''Alternative Procedures for the Manufacture of Cold-Stored Platelets Intended for the Treatment of Active Bleeding when Conventional Platelets Are Not Available or Their Use Is Not Practical.'' FDA is issuing this guidance to provide a notice of exceptions and alternatives to certain requirements in the biologics regulations regarding blood and blood components. This notice is being issued to respond to a public health need and address the urgent and immediate need for platelets for the treatment of active bleeding when conventional platelets are not available, or their use is not practical. In addition, the guidance document provides recommendations to blood establishments for the manufacture and labeling of cold-stored platelets (CSP).

DATES: The announcement of the guidance is published in the **Federal Register** on June 26, 2023.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–2034 for ''Alternative Procedures for the Manufacture of Cold-Stored Platelets Intended for the Treatment of Active Bleeding when Conventional Platelets Are Not Available or Their Use Is Not Practical; Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Jessica Gillum, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of an immediate in effect guidance entitled ''Alternative Procedures for the Manufacture of Cold-Stored Platelets Intended for the Treatment of Active Bleeding when Conventional Platelets Are Not Available or Their Use Is Not Practical.'' FDA is issuing this guidance to provide a notice of exceptions and alternatives to certain requirements in subchapter F of chapter I of title 21 of the CFR (21 CFR parts 600–680) regarding blood and blood components. This notice is being issued under 21 CFR 640.120(b) to respond to a public health need and address the urgent and immediate need for platelets for the treatment of active bleeding when conventional platelets are not available, or their use is not practical. Maintaining platelet availability in the face of logistical challenges (*e.g.,* in military, prehospital, or austere settings) or other threats to blood availability (*e.g.,* mass casualty events or public health emergencies) is critical to assure that platelets are available to patients with active bleeding.

In addition, this guidance document provides recommendations to blood establishments for the manufacture and labeling of CSP. The guidance also discusses the need for additional data on the efficacy of CSP, in particular, to address whether their use is supported when conventional platelets are available, and their use is practical.

This guidance is being issued consistent with FDA's good guidance practices regulation (§ 10.115 (21 CFR 10.115)). FDA is issuing this guidance for immediate implementation in accordance with § 10.115(g)(3) without initially seeking prior comment because the Agency has determined that prior public participation is not feasible or appropriate (see § 10.115(g)(2)). Specifically, we are not seeking comments before implementing this guidance because of the urgent and immediate need for platelets for the treatment of active bleeding when conventional platelets are not available, or their use is not practical.

The guidance represents the current thinking of FDA on alternative procedures for the manufacture of cold-stored platelets intended for the treatment of active bleeding when

conventional platelets are not available, or their use is not practical. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR 211.100 and 211.160(b) have been approved under OMB control number 0910–0139; the collections of information in 21 CFR 601.12 and Form FDA 356h have been approved under OMB control number 0910–0338; and the collections of information in 21 CFR 606.121 and 21 CFR 606.122 have been approved under OMB control number 0910–0116.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: June 21, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–13513 Filed 6–23–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–1987]

Psychedelic Drugs: Considerations for Clinical Investigations; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Psychedelic Drugs: Considerations for Clinical Investigations.'' Because interest in the therapeutic potential of psychedelic drugs has been increasing and designing clinical trials to evaluate these compounds presents unique challenges, FDA has developed this draft guidance to present foundational aspects for sponsors to consider. This draft guidance provides general considerations for sponsors developing psychedelic drugs for treatment of medical conditions (*e.g.,* psychiatric disorders, substance use disorders) and discusses considerations for clinical investigations using psychedelic drugs.

DATES: Submit either electronic or written comments on the draft guidance by August 25, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–1987 for ''Psychedelic Drugs: Considerations for Clinical Investigations.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–

0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Kofi Ansah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4380, Silver Spring, MD 20993–0002, 301–796–4158.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Psychedelic Drugs: Considerations for Clinical Investigations.'' This draft guidance outlines general considerations for drug development programs considering the therapeutic potential of psychedelic drugs for treatment of medical conditions (*e.g.,* psychiatric disorders, substance use disorders).

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Psychedelic Drugs: Considerations for Clinical Investigations.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 312 relating to the submission of investigational new drug applications have been approved under OMB control number 0910–0014. The collections of information in 21 CFR part 314 relating to the submission of new drug applications have been approved under OMB control number 0910–0001. The collections of information in 21 CFR parts 210 and 211 relating to current good manufacturing practice requirements have been approved under OMB control number 0910–0139. The collections of information relating to the protection of human subjects and institutional review boards in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: June 20, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–13428 Filed 6–23–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Chemical Screening and Optimization Facility.

Date: July 20, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anita Szajek, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver, National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131D, Bethesda, MD 20892, (301) 943–5604, *anita.szajek@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: June 20, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13475 Filed 6–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Maximizing Investigators' Research Award—E Study Section.

Date: July 6–7, 2023.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, One Metro Center, 7400 W Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Vandana Kumari, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3290, *vandana.kumari@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Small Business Innovation Research/Small Business Technology Transfer.

Date: July 6–7, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Hybrid Meeting).

Contact Person: Jennifer Di Noia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000E, Bethesda, MD 20892, (301) 594–0288, *dinoiaj2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Cellular, Molecular, Bioanalytical and Imaging Technologies.

Date: July 6, 2023.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 6188, MSC 7804, Bethesda, MD 20892, 301–435–1267, *belangerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Nephrology, Urology and Urogenital Disorders.

Date: July 6, 2023.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Frederique Yiannikouris, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–3313, *frederique.yiannikouris@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: July 6–7, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4152, MSC 7846, Bethesda, MD 20892, (301) 827–6009, *lin.reigh-yi@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 21, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13489 Filed 6–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration, Neuropharmacology, and Eye Diseases.

Date: July 20, 2023.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pablo Miguel Blazquez Gamez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *pablo.blazquezgamez@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 21, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13490 Filed 6–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Developmental Brain Disorders.

Date: June 30, 2023.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846 Bethesda, MD 20892, (301) 408–9866, *manospa@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 21, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13478 Filed 6–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Developing Digital Therapeutics for Substance Use Disorders.

Date: July 18, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jenny Raye Browning, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *jenny.browning@.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 20, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13476 Filed 6–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R7–MB–2023–0082; FXMB12610700000–234–FF07M01000; OMB Control Number 1018–0178]

Agency Information Collection Activities; Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew, without change, an information collection.

DATES: Interested persons are invited to submit comments on or before August 25, 2023.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (reference ''1018–0178'' in the subject line of your comment):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R7–MB–2023–0082.
- *Email: Info_Coll@fws.gov.*
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for managing migratory bird populations that frequent the United States and for setting harvest regulations that allow for the conservation of those populations. These responsibilities include gathering data on various aspects of migratory bird harvest. We use harvest data to review regulation proposals and to issue harvest regulations.

The Migratory Bird Treaty Act Protocol Amendment (1995) (Amendment) provides for the customary and traditional use of migratory birds and their eggs for subsistence use by Indigenous inhabitants of Alaska. The Amendment states that its intent is not to cause significant increases in the take of species of migratory birds relative to their continental population sizes. A submittal letter from the Department of State to the White House (May 20, 1996) accompanied the Amendment and specified the need for harvest monitoring. The submittal letter stated that the Service, the Alaska Department of Fish and Game (ADF&G), and Alaska Native Organizations would collect harvest information cooperatively within the subsistence-eligible areas. Harvest data help to ensure that customary and traditional subsistence uses of migratory birds and their eggs by Indigenous inhabitants of Alaska do not significantly increase the take of species of migratory birds relative to their continental population sizes.

Information collection currently authorized under the OMB approval number 1018–0178 includes three items related to the spring-summer subsistence harvest of migratory birds in Alaska: (1) invitation of residents of non-eligible regions to participate in harvesting activities in the eligible regions; (2) household registration permit for harvest in the Cordova area; and (3) hunter registration permit for harvest in the Kodiak Island Roaded Area. Harvest monitoring associated to the Cordova and Kodiak permits are authorized under a separate OMB control number (1018–0124).

1. *Invitation to Harvest:*

- *Tribal Council Invitation Letter*—Regulations at 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings living in excluded areas) of residents of eligible areas to participate in the spring-summer subsistence harvest of migratory birds in a village's subsistence area. The regulations specify that participation of residents of excluded areas in the spring-summer harvest of migratory birds in an eligible area must

be pre-authorized by a letter of invitation issued by a local Tribal council within the harvest area.

• *Tribal Council Invitation Permit Request*—The permit request is another method to invite an immediate family member residing in an excluded area to participate in the spring-summer subsistence hunt in a defined eligible area. The permit, issued by the Tribal Council, certifies that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in a defined subsistence harvest area. The permit is valid for 2 years from the date of issuance.

• *Tribal Council Notification to Alaska Migratory Bird Co-Management Council (AMBCC)*—Tribal councils will provide copies of all letters of invitation regarding the invitation to hunt and of all issued permits to the Executive Director of the AMBCC.

• *AMBCC Notification to AK Region Office of Law Enforcement*—Upon receiving copies of the letters of invitation and of issued permits from Tribal Councils, the AMBCC Executive Director will inform the Service's Alaska Regional Office of Law Enforcement (AK–OLE) within 2 business days.

2. *Cordova Harvest Household Registration Permit*—The Service's final rule published on April 8, 2014 (79 FR 19454) authorized spring-summer harvest of migratory birds by residents of the community of Cordova in the Gulf of Alaska region. In 2017, the regulations were updated to allow residents of the neighboring communities of Tatitlek and Chenega to harvest in the area defined for the Cordova harvest (April 4, 2017; 82 FR 16298). Local partners, including the Eyak Tribe and the U.S. Forest Service (USFS) Cordova Office's Chugach Subsistence Program, worked in close collaboration with the ADF&G Division of Subsistence to develop a household registration and harvest monitoring system using a post-season mail survey. Household registrations are issued by the Tribal Councils of the communities of Cordova, Tatitlek, and Chenega, as well as by the USFS Cordova Office's Chugach Subsistence Program. The registration form includes fields to write the permit holder's name and mailing address, as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also has fields to write the names of other household members authorized to harvest under the registration. Registration data are securely disposed of after completion of the annual harvest data collection and analysis.

3. *Kodiak Island Roaded Area Hunter Registration Permit*—On April 19, 2021, we issued a final rule (RIN 1018–BF08, 86 FR 20311) that allows migratory bird hunting and egg gathering by registration permit in the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska for a 3-year experimental season (2021–2023), after which time the regulation will sunset. We developed regulations for the spring-summer subsistence harvest of migratory birds in the Kodiak Island Roaded Area (final rule RIN 1018–BF08; 86 FR 20311) under a co-management process involving the Service, the ADF&G, and Alaska Native representatives. These regulations include a permit and harvest reporting system developed in collaboration with the AMBCC local partner, the Sun'aq Tribe of Kodiak. The intent of this rule was to allow all residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a watercraft. Previous regulations closed the Roaded Area to all subsistence migratory bird hunting and egg gathering, but allowed these activities in adjacent marine waters beyond 500 feet from shore, including offshore islands, where access requires a watercraft. The mandatory registration permit and the mandatory reporting of hunter activity and harvest in the 2021–2023 experimental hunt will allow estimation of hunter participation, bird and egg harvest, and harvest composition. These data will inform a potential proposal and decision to reopen the Roaded Area to subsistence hunting in the future. To protect species of conservation concern, spring-summer subsistence hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese will remain closed in the Roaded Area.

Results of harvest monitoring for the 3-year experimental season are expected to be available in fall 2023 for review by the Sun'aq Tribe and other members of the AMBCC, who will make a recommendation on whether to continue the Kodiak Island Roaded Area hunt and whether to continue the requirement for the hunter registration permit and harvest reporting. Based on such forthcoming recommendation, corresponding changes to harvest regulations, if approved, could be implemented for the 2025 Alaska spring-summer migratory bird subsistence harvest season.

Enforcement of regulations for the Kodiak Island Roaded Area will be the responsibility of the Service's Office of Law Enforcement. Enforcement personnel are aware of cultural and traditional practices of migratory bird subsistence harvest by rural residents of Alaska who are eligible to participate for this permit hunt concurrent with the need to ensure conservation of migratory birds, particularly species of conservation concern; of the necessary adherence to specific regulations requiring a permit and mandatory harvest reporting; and that hunting and egg gathering of Arctic terns, Aleutian terns, mew gulls, and emperor geese will remain closed in the Kodiak Island Roaded Area.

The Sun'aq Tribe of Kodiak worked in close collaboration with the ADF&G Division of Subsistence to develop a permit and harvest monitoring system. Permits are issued by the Sun'aq Tribe of Kodiak to individual harvesters. The Sun'aq Tribe provides copies of issued permits to the ADF&G Division of Subsistence, which uses this information to manage the harvest reporting system. The permit includes fields to write the permit holder's name and mailing address, as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes a map of the harvest area and description of the harvest regulations, including the list of species open to harvest. Permit data are securely disposed of after completion of the annual harvest data collection and analysis.

You may request copies of the referenced permit applications by submitting a request to the Service Information Collection Clearance Officer using one of the methods identified in the **ADDRESSES** section of this notice.

Title of Collection: Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR part 92.

OMB Control Number: 1018–0178.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals/households and Tribal governments within subsistence-eligible areas of Alaska.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

Activity/respondents	Average number of annual respondents	Average number of submissions each	Average number of annual responses	Completion time per response (min)	Total annual burden hours *
Tribal Council Invitation Letter (50 CFR 92.5)					
Tribal Governments	1	1	1	30	1
Tribal Council Invitation Permit Request (50 CFR 92.5)					
Tribal Governments	1	1	1	30	1
Tribal Council Notification to AMBCC (50 CFR 92.5)					
Tribal Governments	1	1	1	30	1
Kodiak Island Roaded Area Hunter Registration Permit (50 CFR 92.31)					
Individuals	200	1	200	15	50
Cordova Household Registration Permit (50 CFR 92.31)					
Individuals	30	1	30	15	8
Totals	234		234		62

* Rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2023–13432 Filed 6–23–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2023–N023; FXES11140200000–223–FF02ENEH00]

Categorical Exclusion and Candidate Conservation Plan; Trinity River Authority Candidate Conservation Agreement With Assurances, Trinity River Basin, TX

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), make available a draft screening form for a categorical exclusion (dCatEx form) under the National Environmental Policy Act and also a candidate conservation agreement with assurances (CCAA) for water supply, water and wastewater treatment, and reservoir operations, as well as operation and maintenance activities for infrastructure associated with these services (*e.g.,* pipelines, levees) in the Trinity River Basin, Texas. The Trinity River Authority (TRA) has applied for an enhancement of survival permit (EOS permit) that would authorize incidental take of four freshwater mussel species and two turtle species. If approved, the TRA would hold the permit and issue certificates of inclusion (CI) authorizing incidental take to participating non-Federal landowners (partners), including the North Texas Municipal Water District, Tarrant Regional Water District, City of Dallas, and City of Fort Worth. The dCatEx form evaluates the impacts of, and alternatives to, implementation of the proposed CCAA. We invite the public and local, State, Tribal, and Federal agencies to comment on the CCAA and EOS permit application, as well as on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality National Environmental Policy Act regulations and Department of the Interior (DOI) NEPA regulations and the DOI Departmental Manual. To make this preliminary determination, we prepared the dCatEx form, also available for public review.

DATES: To ensure consideration, written comments must be received or postmarked on or before 11:59 p.m. Eastern Time on July 26, 2023.

ADDRESSES:

Accessing Documents: You may access the dCatEx form and CCAA by any of the following means. In your request for documents, please reference the ''Trinity River Authority CCAA.''

- *Internet: https://www.fws.gov/office/arlington-ecological-services/news.*
- *U.S. Mail:* You may obtain a CD–ROM containing the documents (limited supply), by request, from the U.S. Fish and Wildlife Service, Field Supervisor for the Arlington Texas Ecological Services Field Office, 501 West Felix Street, Suite 1105, Fort Worth, Texas 76115.

Submitting Comments: You may submit written comments by one of the following methods. In your comments, please reference ''Trinity River Authority CCAA.''

- *Email: arles@fws.gov.*
- *U.S. Mail:* Field Supervisor, Arlington Texas Ecological Serviced Field Office (street address above).

We request that you send comments by only one of the above methods.

FOR FURTHER INFORMATION CONTACT: Erik Orsak, Acting Field Supervisor, by mail (street address above) or via phone at 682–348–7397. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), make available a draft screening form

for a categorical exclusion (dCatEx form), and also a candidate conservation agreement with assurances (CCAA) for water supply, water and wastewater treatment, and reservoir operations, as well as operation and maintenance activities for infrastructure associated with these services (*e.g.,* pipelines, levees) in the Trinity River Basin, Texas. The Trinity River Authority (TRA) has applied for an enhancement of survival permit (EOS permit) that would authorize incidental take of four freshwater mussel species and two turtle species. If approved, the TRA would hold the EOS permit and issue certificates of inclusion (CIs) authorizing incidental take to participating non-Federal landowners (partners), including the North Texas Municipal Water District, Tarrant Regional Water District, City of Dallas, and City of Fort Worth. The dCatEx form evaluates the impacts of, and alternatives to, implementation of the proposed CCAA. We invite the public and local, State, Tribal, and Federal agencies to comment on the CCAA and EOS permit application, as well as on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality National Environmental Policy Act regulations (NEPA; 40 CFR 1501.4) and Department of the Interior (DOI) NEPA regulations (43 CFR 46) and the DOI Departmental Manual. To make this preliminary determination, we prepared the dCatEx form, also available for public review.

Background

Section 9 of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. Take is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct'' (16 U.S.C. 1538). However, under section 10(a) of the ESA, the Service may issue permits for incidental take if such take is authorized under an enhancement of survival of candidate species EOS permit and covered by a CCAA. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing such take of endangered and threatened/candidate species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Permit Application

The Trinity River Authority (TRA) has applied to the Service for an enhancement of survival (EOS) permit under section 10(a)(1)(A) of the ESA. Such permits authorize take that is incidental to otherwise lawful activities (50 CFR 17.3). If approved, the TRA would hold the EOS permit and issue certificates of inclusion (CIs) authorizing incidental take to participating partners, including the North Texas Municipal Water District, Tarrant Regional Water District, City of Dallas, and City of Fort Worth. The requested EOS permit, which is for a period of 10 years, would authorize incidental take of four freshwater mussel species [Texas heelsplitter (*Potamilus amphichaenus*), Trinity pigtoe (*Fusconaia chunii*), Texas fawnsfoot (*Truncilla macrodon*), and Louisiana pigtoe (*Pleurobema riddellii*)] and two turtle species [western chicken turtle (*Deirochelys reticularia miaria*) and alligator snapping turtle (*Macrochelys temminckii*)]. The proposed incidental take would result from activities associated with otherwise lawful activities during implementation of conservation measures intended to benefit at-risk species and ongoing water supply and water and wastewater treatment operations, including associated inspections, repairs, and maintenance activities for these operations. The CCAA and associated permit would implement a voluntary conservation strategy for freshwater mussels developed by the TRA and partners based on the National Strategy for the Conservation of Native Freshwater Mussels developed by the Freshwater Mollusk Conservation Society. A national freshwater turtle conservation strategy does not currently exist; however, the CCAA also includes voluntary conservation measures that TRA and partners will implement to benefit freshwater turtles. Conservation outlined in the CCAA includes measures to minimize and avoid direct and indirect impacts to the covered species and their habitats, including a comprehensive monitoring and adaptive management program, compliance with existing environmental flow standards, conducting routine water quality monitoring of sites near existing mussel populations, conducting an invasive species monitoring and control program, conducting applied research on mussel survival in the Trinity River downstream of the Dallas/Fort Worth Metropolitan area, supporting turtle research and reintroduction programs in the basin, assessment of restoration potential in the Trinity River Basin for mussels and turtles, and public outreach and education about the resource needs of freshwater mussels and turtles. The expected result of the implementation of the conservation strategy and conservation measures, including any incidental take associated with activities covered by the permit, is a net conservation benefit to the Texas heelsplitter, Texas fawnsfoot, Trinity pigtoe, Louisiana pigtoe, western chicken turtle, and alligator snapping turtle. The intent of the CCAA and associated permit is to provide the TRA and partners with the opportunity to voluntarily conserve the species covered by the permit and their habitat, while carrying out existing and ongoing water supply and wastewater operations, while providing a net conservation benefit to the species. If approved, the EOS permit would be for a 10-year period following the signature of the CCAA and would authorize incidental take of the Texas heelsplitter, Texas fawnsfoot, Trinity pigtoe, Louisiana pigtoe, western chicken turtle, and alligator snapping turtle, if any of the species become listed under the ESA.

National Environmental Policy Act Alternatives

The dCatEx form evaluates the impacts of, and alternatives to, implementation of the proposed CCAA.

Proposed Action

The proposed action involves the issuance of an EOS permit by the Service for the covered activities in the permit area, under section 10(a)(1)(A) of the ESA. The EOS permit would cover ''take'' of the covered species associated with actions implemented by the TRA and partners to conserve freshwater mussels and turtles, and the operation, inspection, repair, and maintenance of existing TRA and partner infrastructure within the permit area. An application for an EOS permit must include a CCAA that describes the conservation measures the applicant has agreed to undertake to minimize and mitigate for the impacts of the proposed taking of covered species to the maximum extent practicable. The applicant, and any partners included through CI, will fully implement the CCAA if approved by the Service. The terms of the CCAA and EOS permit will also ensure that incidental take/enhancement of survival will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

No Action Alternative

We have considered one alternative to the proposed action as part of this

process: No Action. Under a No Action alternative, the Service would not issue the requested EOS permit and the applicant would not implement the comprehensive conservation strategy for these species described in the CCAA. Without an EOS permit, the applicant and partners would either need to perform ongoing operations, inspections, repairs, and maintenance activities of their infrastructure in a manner that avoids incidental take, or they would need to seek coverage for take through another ESA mechanism, such as consultation under ESA section 7 (if a Federal nexus exists) or development of a habitat conservation plan under ESA section 10.

Next Steps

We will evaluate the CCAA and comments we receive to determine whether the EOS permit application meets the requirements of section 10(a) of the ESA. We will also evaluate whether issuance of a section 10(a)(1)(A) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether to issue an EOS permit. If all necessary requirements are met, we will issue the EOS permit to the applicant.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy L. Lueders,

Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2023–13491 Filed 6–23–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R3–FAC–2023–0096; FF03F43100–XXXF1611NR; OMB Control Number 1018–0179]

Agency Information Collection Activities; Sea Lamprey Control Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection, without change.

DATES: Interested persons are invited to submit comments on or before August 25, 2023.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference 1018–0179 in the subject line of your comments):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R3–FAC–2023–0096.
- *Email: Info_Coll@fws.gov.*
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Service staff at the Marquette and Ludington biological stations fulfill U.S. obligations under the Convention on Great Lakes Fisheries Between the United States of America and Canada, Washington, 1954, and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 *et seq.*). The Service works with State, Tribal, and other Federal agencies to monitor progress towards fish community objectives for sea lampreys in each of the Great Lakes, and also to develop and implement actions to achieve these objectives. Activities

are closely coordinated with those of State, Tribal, and other Federal and provincial management agencies, nongovernmental organizations, private landowners, and the public. Our primary goal is to conduct ecologically sound and publicly acceptable integrated sea lamprey control.

The Sea Lamprey Control Program is administered and funded by the Great Lakes Fishery Commission (GLFC) and implemented by two control agents, the U.S. Fish and Wildlife Service and Fisheries and Oceans Canada, who often partner on larger projects. The sea lamprey (*Petromyzon marinus*), a parasitic fish species native to the Atlantic Ocean, parasitizes other fish species by sucking their blood and other bodily fluids. Having survived through at least four major extinction events, the species has remained largely unchanged for more than 340 million years. The sea lamprey differs from many other fishes, in that it does not have jaws or other bony structures, but instead has a skeleton made of cartilage. Sea lampreys prey on most species of large Great Lakes fish such as lake trout, salmon, lake sturgeon, whitefish, burbot, walleye, and catfish.

In the 1800s, sea lampreys invaded the Great Lakes system via manmade locks and shipping canals. Their aggressive behavior and appetite for fish blood wreaked havoc on native fish populations, decimating an already vulnerable lake trout fishery. The first recorded observation of a sea lamprey in the Great Lakes was in 1835 in Lake Ontario. For a time, Niagara Falls served as a natural barrier, confining sea lampreys to Lake Ontario and preventing them from entering the remaining four Great Lakes. However, in the early 1900s, modifications were made to the Welland Canal, which bypasses Niagara Falls and provides a shipping connection between Lakes Ontario and Erie. These modifications allowed sea lampreys access to the rest of the Great Lakes system. Within a short time, sea lampreys spread throughout the system: into Lake Erie by 1921, Lakes Michigan and Huron by 1936 and 1937, and Lake Superior by 1938. Sea lampreys were able to thrive once they invaded the Great Lakes because of the availability of excellent spawning and larval habitat, an abundance of host fish, a lack of predators, and their high reproductive potential—a single female can produce as many as 100,000 eggs.

The Sea Lamprey Control Program (SLCP) maintains an internal database. In existence for more than 20 years, it contains information critical to the delivery and evaluation of an integrated control program to manage invasive sea lamprey populations in the five Great Lakes. The storage of data in this database not only documents the history of the SLCP since inception in 1953, but it also provides data to steer assessment and control of invasive sea lamprey populations in the Great Lakes in partnership with the GLFC. We provide annual population data to Federal and State regulatory agencies to inform critical evaluations used to receive the appropriate permits to allow us to conduct sea lamprey control actions.

The SLCP database maintains the points of contact for landowners to request landowner permission to access their land for treatment. The Service collects basic contact information for the landowner (name, home address, phone number, cell phone number, and email address), along with alternate contact information, whether they allow access to their land, methods of transportation allowed on property, whether a gate key or gate combination is needed to access the land, whether the landowner irrigates the land, and an opportunity to ask additional questions about treatment or sea lamprey management.

Title of Collection: Sea Lamprey Control Program.

OMB Control Number: 1018–0179.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals, private sector, and State/local/Tribal governments.

Total Estimated Number of Annual Respondents: 440.

Total Estimated Number of Annual Responses: 440.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 37 (rounded).

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2023–13435 Filed 6–23–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R7–MB–2023–0081; FXMB12610700000–234–FF07M01000; OMB Control Number 1018–0124]

Agency Information Collection Activities; Alaska Subsistence Bird Harvest Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew, without change, a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before August 25, 2023.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (reference ''1018–0124'' in the subject line of your comment):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R7–MB–2023–0081.
- *Email: Info_Coll@fws.gov.*
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also

helps the public understand our information collection requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for managing migratory bird populations that frequent the United States and for setting harvest regulations that allow for the conservation of those populations. These responsibilities include gathering data on various aspects of migratory bird harvest. We use harvest data to review regulation proposals and to issue harvest regulations.

The Migratory Bird Treaty Act Protocol Amendment (1995) (Amendment) provides for the customary and traditional use of migratory birds and their eggs for subsistence use by Indigenous inhabitants of Alaska. The Amendment states that its intent is not to cause significant increases in the take of species of migratory birds relative to their continental population sizes. A submittal letter from the Department of State to the White House (May 20, 1996) accompanied the Amendment and specified the need for harvest monitoring. The submittal letter stated that the Service, the Alaska Department of Fish and Game (ADF&G), and Alaska Native Organizations would collect harvest information cooperatively within the subsistence-eligible areas. Harvest data help to ensure that customary and traditional subsistence uses of migratory birds and their eggs by Indigenous inhabitants of Alaska do not significantly increase the take of species of migratory birds relative to their continental population sizes. The Alaska Migratory Bird Co-Management Council (AMBCC) was created in 2000, including the Service, the ADF&G, and the Alaska Native Caucus, to implement provisions related to the amendment of the Migratory Bird treaty Act allowing the spring-summer subsistence harvest of migratory birds in Alaska.

Information collection authorized under Control Number 1018–0124 includes three items:

1. Five-Region Alaska Migratory Bird Co-Management Council Harvest Survey—We monitored subsistence harvest of migratory birds using household surveys in the Yukon-Kuskokwim Delta region during the period 1985–2002, and in the Bristol Bay region during 1995–2002. Since 2004, the AMBCC Harvest Assessment Program has been conducting regular surveys across Alaska to document the subsistence harvest of birds and their eggs. The statewide harvest assessment program helps to describe geographical and seasonal harvest patterns, and to track trends in harvest levels. The program relies on collaboration among the Service, the ADF&G, and diverse Alaska Native Organizations.

We collect harvest data for about 60 bird species/categories and their eggs (ducks, geese, swans, cranes, seabirds, shorebirds, grebes and loons, and grouse and ptarmigan) in the subsistence-eligible areas of Alaska. The survey covers spring, summer, and fall harvest in most regions.

In collaboration with Alaska Native Organizations, we hire local resident surveyors to collect the harvest data. The surveyors list all households in the communities, randomly select households to be surveyed, and interview households that have agreed to participate. To ensure anonymity of harvest information, we identify each household by a numeric code. Since the beginning of the survey in 2004, twice we have re-evaluated and revised survey methods to streamline procedures and minimize respondent burden. The five-region AMBCC harvest survey uses the following currently approved forms for household participation:

- Tracking Sheet and Household Consent (Form 3–2380)—The surveyor visits each household selected to participate in the survey to obtain household consent to participate. The surveyor uses this form to record household consent.
- Harvest Reports (Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, and 3–2381–5)—The Harvest Report forms include drawings of bird species most commonly available for harvest in different regions of Alaska, with fields for recording numbers of birds and eggs taken. Each form has up to four sheets, one sheet for each surveyed season. Because bird species available for harvest vary in different regions of Alaska, there are four versions of the harvest report form, each for a different set of species. This helps to prevent users from erroneously recording bird species as harvested in areas where they do not usually occur. The Western and Interior forms (3–2381–1 and 3–2381–3) have three sheets (spring, summer, and fall). We use the Southern Coastal form (3–2381–2) only in the Bristol Bay region. The North Slope form (3–2381–4) has two sheets (spring and summer). Each seasonal sheet has black and white drawings of bird species, next to which are fields to record the number of birds and eggs harvested.

2. Cordova Permit Household Harvest Report (Form 3–2381–5)—Federal regulations allow residents of the community of Cordova (final rule published on April 8, 2014; 79 FR 19454) and the neighboring communities of Tatitlek and Chenega (final rule published April 4, 2017; 82 FR 16298) to harvest in the area defined for the Cordova harvest. Local partners, including the Eyak Tribe and the U.S. Forest Service Cordova Office's Chugach Subsistence Program, worked in close collaboration with the ADF&G Division of Subsistence to develop a household registration and harvest monitoring system. Data collection for the household registration is approved under OMB control number 1018–0178. Data collection for the associated harvest reporting is approved under OMB control number 1018–0124. Harvest monitoring for the Cordova harvest is done using a post-season mail survey (three mailings). The Cordova harvest report form (3–2381–5) has only one sheet (spring).

3. Kodiak Island Roaded Area Permit Hunter Harvest Report (Forms 3–2381–6 and 3–2381–7)—On April 19, 2021, we issued a final rule (RIN 1018–BF08; 86 FR 20311) that allows migratory bird hunting and egg gathering by registration permit in the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska for a 3-year experimental season (2021–2023). We developed regulations for the spring-summer subsistence harvest of migratory birds in the Kodiak Island Roaded Area under a co-management process involving the Service, the ADF&G, and Alaska Native representatives. To participate in the Kodiak roaded area harvest, harvesters must obtain a permit and to complete a harvest report form, even if they did not harvest. Staff from the ADF&G Division of Subsistence worked in close collaboration with the Sun'aq Tribe of Kodiak to develop the permit and harvest reporting system, which started in 2021. The Sun'aq Tribe issues the permits. Information collection for the permit is authorized under OMB Control Number 1018–0178. Information collection for the associated harvest monitoring is authorized under Control Number 1018–0124.

The Sun'aq Tribe requested in-season harvest reporting. Permit holders receive the Kodiak Roaded Area In-Season Harvest Report (Form 3–2381–6) at the time the permit is issued. Harvesters must record their harvest using this form along the season. At the end of the season (early September), all permit holders must submit the completed Kodiak Roaded Area In-Season Harvest Report (Form 3–2381–7) indicating whether they harvested birds and eggs, and if so, the kinds and amounts of birds and eggs harvested. Permit holders submit the completed form by mail to the ADF&G for data analysis (the form includes the return address and is postage-paid). To ensure a more complete harvest reporting, the ADF&G will mail a post-season harvest survey to permit holders who did not submit a completed in-season harvest log. The post-season mail survey includes two reminders. Reported harvests will be extrapolated to represent all permit holders, based on statistical methods. Forms 3–2381–6 and 3–2381–7 are only completed twice per year (spring and summer seasons).

You may request copies of all forms in this information collection by submitting a request to the Service Information Collection Clearance Officer using one of the methods identified in the **ADDRESSES** section of this notice.

Title of Collection: Alaska Migratory Bird Subsistence Harvest Household Survey.

OMB Control Number: 1018–0124.

Form Numbers: Forms 3–2380, and 3–2381–1 through 3–2381–7.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Households within subsistence-eligible areas of Alaska.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

Activity/respondents	Average number of annual respondents	Average number of submissions each	Average number of annual responses	Completion time per response (minutes)	Total annual burden hours *
Tracking Sheet and Household Consent (Form 3–2380)					
Individuals	1,121	1	1,121	5	93
Migratory Bird Subsistence Harvest Household Survey (Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4)					
Individuals	1,000	3	3,000	5	250
Cordova Permit Household Harvest Report (Form 3–2381–5)					
Individuals	30	1	30	5	3
Kodiak Island Roaded Area Permit Hunter Harvest Report (Form 3–2381–6 and 3–2381–7)					
Individuals	200	2	400	5	33
Totals	2,351		4,551		379

* Rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2023–13434 Filed 6–23–23; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1064 and 1066–1068 (Third Review)]

Frozen Warmwater Shrimp From China, India, Thailand, and Vietnam; Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on frozen warmwater shrimp from China, India, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on May 2, 2022 (87 FR 25665) and determined on August 5, 2022 that it would conduct full reviews (87 FR 54260, September 2, 2022). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on November 18, 2022 (87 FR 69338). The Commission conducted its hearing on April 11, 2023. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on June 20, 2023. The views of the Commission are contained in USITC Publication 5432 (June 2023), entitled *Frozen Warmwater Shrimp from China, India, Thailand, and Vietnam: Investigation Nos. 731–TA–1064 and 1066–1068 (Third Review).*

By order of the Commission.

Issued: June 20, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2023–13444 Filed 6–23–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1221]

Bulk Manufacturer of Controlled Substances Application: American Radiolabeled Chem

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: American Radiolabeled Chem has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 25, 2023. Such persons may also file a written request for a hearing on the application on or before August 25, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 19, 2023, American Radiolabeled Chem, 100 Arc Drive, St. Louis, Missouri 63146–3502, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Ibogaine	7260	I
Lysergic acid diethylamide	7315	I
Tetrahydrocannabinols	7370	I
Dimethyltryptamine	7435	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
Noroxymorphone	9145	I
Heroin	9200	I
Normorphine	9313	I
Amphetamine	1100	II
Methamphetamine	1105	II
Amobarbital	2125	II
Phencyclidine	7471	II
Phenylacetone	8501	II
Cocaine	9041	II
Codeine	90.50	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Hydrocodone	9193	II
Meperidine	9230	II
Metazocine	9240	II
Methadone	9250	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Oxymorphone	9652	II
Phenazocine	9715	II
Carfentanil	9743	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. The company plans to manufacture small quantities of the above-listed controlled substances as radiolabeled compounds for biochemical research. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–13473 Filed 6–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1203]

Bulk Manufacturer of Controlled Substances Application: Arista Biologicals

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Arista Biologicals has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 25, 2023. Such persons may also file a written request for a hearing on the application on or before August 25, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 6, 2023, Arista Biologicals, 1101 Hamilton Street, Allentown, Pennsylvania 18101–1043, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
4-Anilino-N-Phenethyl-4-Piperidine (ANPP)	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl)propionamide)	8366	II

The company plans to bulk manufacture the listed controlled substances for internal use as intermediates for formulation and analytical development purposes. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–13466 Filed 6–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1220]

Bulk Manufacturer of Controlled Substances Application: Olon Ricerca Bioscience LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Olon Ricerca Bioscience LLC, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 25, 2023. Such persons may also file a written request for a hearing on the application on or before August 25, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 17, 2023, Olon Ricerca Bioscience LLC, 7528 Auburn Road, Concord Township, Ohio 44077–9176 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Lisdexamfetamine	1205	II

The company plans to bulk manufacture the listed controlled substances for distribution to their customers. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–13471 Filed 6–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Student Safety Assessment of Job Corps Centers

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 26, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department of Labor's Office of Job Corps conducts a Student Safety Assessment. Thes collection of information through this assessment is necessary for program evaluation to gauge active students' sense of safety and security at centers. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 7, 2023 (88 FR 7997).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Student Safety Assessment of Job Corps Centers.

OMB Control Number: 1205–0542.

Affected Public: Private Sector—Individuals or Households.

Total Estimated Number of Respondents: 33,906.

Total Estimated Number of Responses: 230,072.

Total Estimated Annual Time Burden: 57,518 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2023–13468 Filed 6–23–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Agency Information Collection Activities; Comment Request; Roentgenographic Interpretation (CM–933), Roentgenographic Quality Rereading (CM–933b), Medical History and Examination for Coal Mine Workers' Pneumoconiosis (CM–988), Report of Arterial Blood Gas Study (CM–1159), and Report of Ventilatory Study (CM–2907)

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Roentgenographic Interpretation'' (Form CM–933), ''Roentgenographic Quality Rereading'' (Form CM–933a), ''Medical History and Examination for Coal Mine Workers' Pneumoconiosis'' (Form CM–988 and CM–988a), ''Report of Arterial Blood Gas Study'' (Form CM–1159), and ''Report of Ventilatory Study'' (Form CM–2907). This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by August 25, 2023.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

Submit written comments about this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Program, Division of Coal Mine Workers' Compensation, Room S–3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information

before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* provides benefits to coal miners who are totally disabled by black lung disease arising out of coal mine employment, and certain dependents and survivors. When a miner applies for benefits, the Division of Coal Mine Workers' Compensation (DCMWC) is required to give the miner an opportunity to establish his or her eligibility by providing a complete pulmonary evaluation, including a chest radiograph (X-ray), physical examination, pulmonary function test (also known as a ventilatory study), and arterial blood gas study. 30 U.S.C. 923(b); 20 CFR 718.101, 725.406. Forms CM–933, 933b, 988, 988a, 1159, and 2907 are used by physicians to report the results of these diagnostic tests. The information collected on these forms is used to determine whether the miner is totally disabled due to black lung disease caused by coal mine employment. The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* and implementing regulation, 20 CFR 725.406, authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final ICR. To help ensure appropriate consideration, comments should mention 1240–0023.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP–DCMWC.

Type of Review: Extension.

Title of Collection: Roentgenographic Interpretation, Roentgenographic Quality Rereading, Medical History and Examination for Coal Mine Workers' Pneumoconiosis, Report of Arterial Blood Gas Study, and Report of Ventilatory Study.

Form: Roentgenographic Interpretation, (CM–933), Roentgenographic Quality Rereading, (CM–933b), Medical History and Examination for Coal Mine Workers' Pneumoconiosis, (CM–988), Report of Arterial Blood Gas Study, (CM–1159), and Report of Ventilatory Study, (CM–2907).

OMB Control Number: 1240–0023.

Affected Public: Business or other for profit, and not-for-profit institutions.

Estimated Number of Respondents: 21,500.

Frequency: Occasion.

Total Estimated Annual Responses: 21,500.

Estimated Average Time per Response: 3 to 40 minutes.

Estimated Total Annual Burden Hours: 5,232 hours.

Total Estimated Annual Other Cost Burden: $0.00.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Dated: June 20, 2023.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2023–13469 Filed 6–23–23; 8:45 am]

BILLING CODE 4510–CK–P

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

47th Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), National Foundation of the Arts and the Humanities (NFAH).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Museum and Library Services Board will meet to advise the Director of the Institute of Museum and Library Services (IMLS) with respect to duties, powers, and authority of IMLS relating to museum, library, and information services, as well as coordination of activities for the improvement of these services.

DATES: The meeting will be held on July 18, 2023, from 9 a.m. until adjourned.

ADDRESSES: The meeting will convene in person with limited capability for virtual participation. Instructions for attending will be sent to all registrants. The meeting will be held at 955 L'Enfant Plaza North, SW, Suite 4000, Room 4029, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Chief of Staff and Alternate Designated Federal Officer, Institute of Museum and Library Services, Suite 4000, 955 L'Enfant Plaza North SW, Washington, DC 20024; (202) 653–4798; *kmaas@imls.gov.*

SUPPLEMENTARY INFORMATION: The National Museum and Library Services Board is meeting pursuant to the National Museum and Library Service Act, 20 U.S.C. 9105a, and the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. app.

The 47th Meeting of the National Museum and Library Services Board, which is open to the public, will convene at 9 a.m. Eastern Time on July 18, 2023. The agenda for the 47th Meeting of the National Museum and Library Services Board will be as follows:

I. Call to Order
II. Approval of Minutes of the 46th Meeting
III. Director's Welcome and Update
IV. Programmatic Updates and Discussion:
  A. Library Grants to States Program;
  B. Museums Research and Data;
  C. IMLS 250—Preparing for the Upcoming 250th Anniversary of the United States;
  D. Advancing Information Literacy.

If you wish to attend the meeting, please inform IMLS as soon as possible, but no later than close of business on

July 12, 2023, by contacting Katherine Maas at *kmaas@imls.gov.* Please provide notice of any special needs or accommodations by July 5th, 2023.

Dated: June 20, 2023.

Brianna Ingram,

Paralegal Specialist.

[FR Doc. 2023–13421 Filed 6–23–23; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0133]

Information Collection: NRC Form 212, Qualifications Investigation Professional, Technical, and Administrative Positions

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions.''

DATES: Submit comments by July 26, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0133 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0133.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML23144A241. The supporting statement is available in ADAMS under Accession No. ML23144A240.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 14, 2023, 88 FR 9541.

1. *The title of the information collection:* NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions.''
2. *OMB approval number:* 3150–0033.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Form 212.
5. *How often the collection is required or requested:* The form is collected for every new hire to the NRC.
6. *Who will be required or asked to respond:* Former employers, supervisors, and other references indicated on the job application are asked to complete the NRC Form 212.
7. *The estimated number of annual responses:* 1,000 forms.
8. *The estimated number of annual respondents:* 1,000 respondents.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 500 hours.
10. *Abstract:* Information requested on NRC Form 212 is used to determine the qualifications and suitability of applicants for employment in professional, technical, and administrative positions with the NRC. The completed form may be used to examine, rate and/or assess the prospective employee's qualifications. The information regarding the

qualifications of applicants for employment is reviewed by professional personnel in the Office of the Chief Human Capital Officer, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

Dated: June 21, 2023.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2023–13463 Filed 6–23–23; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97768; File No. SR–MIAX–2023–23]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Increase Fees for the ToM Market Data Product and Establish Fees for the cToM Market Data Product

June 20, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 7, 2023, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Fee Schedule (''Fee Schedule'') to amend the fees for two market data products by (i) amending the fees for MIAX Top of Market (''ToM''); and (ii) establishing fees for MIAX Complex Top of Market (''cToM'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fees for two market data products by (i) amending the fees for ToM; and (ii) establishing fees for cToM. The proposed fees will be immediately effective. The Exchange initially filed the proposal on December 28, 2022 (SR–MIAX–2022–49) (the ''Initial Proposal'').[3] On February 23, 2023, the Exchange withdrew the Initial Proposal and replaced it with a revised proposal (SR–MIAX–2023–07) (the ''Second Proposal'').[4] On April 11, 2023, the Exchange withdrew the Second Proposal and replaced it with further revised proposal (SR–MIAX–2023–17) (the ''Third Proposal'').[5] The Exchange recently withdrew the Third Proposal and replaced it with this current proposal (SR–MIAX–2023–23).[6]

The Exchange previously filed several proposals to adopt fees for cToM.[7] The Exchange notes that these prior proposals included an analysis of the costs underlying the compilation and dissemination of the proposed cToM fees. The Exchange previously included a cost analysis in the Initial, Second and Third Proposals. As described more fully below, the Exchange provides an updated cost analysis that includes, among other things, additional descriptions of how the Exchange allocated costs among it and its affiliated exchanges (MIAX PEARL, LLC (''MIAX Pearl''), separately among MIAX Pearl Options and MIAX Pearl Equities, and MIAX Emerald, LLC (''MIAX Emerald,'' together with MIAX Pearl, the ''affiliated markets'')) to ensure no cost was allocated more than once, as well as additional detail supporting its cost allocation processes and explanations as to why a cost allocation in this proposal may differ from the same cost allocation in a similar proposal submitted by one of its affiliated markets. Although the baseline cost analysis used to justify the proposed fees was made in the Initial, Second and Third Proposals, the fees themselves have not changed since the Initial Proposal and the Exchange still proposes fees that are intended to cover the Exchange's cost of providing ToM and cToM, with a reasonable mark-up over those costs. The proposed fees are intended to cover the Exchange's cost of compiling and disseminating ToM and cToM with a reasonable mark-up over those costs, accounting for ongoing increases in expenses.[8] Before setting forth the additional details regarding the proposal as well as the updated Cost Analysis conducted by the Exchange, immediately below is a description of the proposed fees.

[3] *See* Securities Exchange Act Release No. 96626 (January 10, 2023), 88 FR 2699 (January 17, 2023) (SR–MIAX–2022–49).

[4] *See* Securities Exchange Act Release No. 97080 (March 8, 2023), 88 FR 15803 (March 14, 2023) (SR–MIAX–2023–07).

[5] *See* Securities Exchange Act Release No. 97327 (April 19, 2023), 88 FR 25032 (April 25, 2023) (SR–MIAX–2023–17).

[6] The Exchange met with Commission Staff to discuss the Third Proposal during which the Commission Staff provided feedback and requested additional information, including, most recently, information about total costs related to certain third party vendors. Such vendor cost information is subject to confidentiality restrictions. The Exchange has provided this information to Commission Staff under separate cover with a request for confidentiality. While the Exchange will continue to be responsive to Commission Staff's information requests, the Exchange believes that the Commission should, at this point, issue substantially more detailed guidance for exchanges to follow in the process of pursuing a cost-based approach to fee filings, and that, for the purposes of fair competition, detailed disclosures by exchanges, such as those that the Exchange is providing now, should be consistent across all exchanges, including for those that have resisted a cost-based approach to fee filings, in the interests of fair and even disclosure and fair competition.

[7] *See* Securities Exchange Act Release Nos. 92359 (July 9, 2021), 86 FR 37393 (July 15, 2021) (SR–MIAX–2021–28); SR–MIAX–2021–44 (withdrawn without being noticed by the Commission); 93426 (October 26, 2021), 86 FR 60314 (November 1, 2021) (SR–MIAX–2021–50); 93808 (December 17, 2021), 86 FR 73011 (December 23, 2021) (SR–MIAX–2021–62); 94262 (February 15, 2022), 87 FR 9733 (February 22, 2022) (SR–MIAX–2022–10); 94716 (April 14, 2022), 87 FR 23616 (April 20, 2022); 94893 (May 11, 2022), 87 FR 29914 (May 17, 2022) (SR–MIAX–2022–19).

[8] For example, the New York Stock Exchange, Inc.'s (''NYSE'') Secure Financial Transaction Infrastructure (''SFTI'') network, which contributes to the Exchange's connectivity cost, increased its fees by approximately 9% since 2021. Similarly, since 2021, the Exchange, and its affiliates, experienced an increase in data center costs of approximately 17% and an increase in hardware and software costs of approximately 19%. These percentages are based on the Exchange's actual 2021 and proposed 2023 budgets.

Proposed Market Data Pricing

The Exchange offers ToM and cToM to subscribers. The Exchange notes that there is no requirement that any Member [9] or market participant subscribe to ToM or cToM or any other data feed offered by the Exchange. Instead, a Member may choose to maintain subscriptions to ToM or cToM based on their business model. The proposed fees will not apply differently based upon the size or type of firm, but rather based upon the subscriptions a firm has to ToM or cToM and their use thereof, which are based upon factors deemed relevant by each firm. The proposed pricing for ToM and cToM is set forth below.

ToM

ToM is an Exchange-only market data feed that contains top of book quotations based on options orders [10] and quotes [11] entered into the System [12] and resting on the Exchange's Simple Order Book [13] as well as administrative messages.[14] The Exchange currently charges Internal Distributors [15] $1,250 per month and External Distributors $1,750 per month for ToM. The Exchange does not currently charge, nor does it now propose to charge any additional fees based on a subscriber's use of the ToM and cToM data feeds, *e.g.,* displayed versus non-displayed use, redistribution fees, or any individual per user fees. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for producing ToM to subscribers to be $371,817, or approximately $30,985 per month (rounded to the nearest dollar when dividing the annual cost by 12 months). The Exchange proposes to amend Section (6)(a) of the Fee Schedule to now charge Internal Distributors $2,000 per month and External Distributors $3,000 per month for ToM in an effort to cover the Exchange's increasing costs with compiling and producing ToM to market participants as evidenced by the Exchange's Cost Analysis detailed below.

cToM

The Exchange previously adopted rules governing the trading of Complex Orders [16] on the System in 2016.[17] At that time, the Exchange also adopted cToM and expressly waived fees for cToM to incentivize market participants to subscribe.[18] cToM was provided free of charge for six years and the Exchange absorbed all costs associated with compiling and disseminating cToM during that entire time. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for producing cToM to subscribers to be $278,863, or approximately $23,239 per month (rounded to the nearest dollar when dividing the annual cost by 12 months). The Exchange now proposes to amend Section (6)(a) of the Fee Schedule to establish fees for cToM in order to recoup its ongoing costs going forward.

In summary, cToM provides subscribers with the same information as ToM as it relates to the Strategy Book,[19] *i.e.,* the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable orders in the complex strategy on the Exchange. However, cToM provides subscribers with the following additional information that is not included in ToM: (i) the identification of the complex strategies currently trading on the Exchange; (ii) complex strategy last sale information; and (iii) the status of securities underlying the complex strategy (*e.g.,* halted, open, or resumed). cToM is therefore a distinct market data product from ToM in that it includes additional information that is not available to subscribers that receive only ToM. ToM subscribers are not required to subscribe to cToM, and cToM subscribers are not required to subscribe to ToM.

cToM Proposed Fees

The Exchange proposes to amend Section (6)(a) of the Fee Schedule to charge Internal Distributors $2,000 per month and External Distributors $3,000 per month for the cToM data feed. The proposed fees are identical to the fees that the Exchange proposes to charge for ToM. The Exchange does not propose to adopt redistribution fees for the cToM data feed. However, the recipient of cToM data would be required to become a data subscriber and would be subject to the applicable data subscriber fees. The Exchange also does not propose to charge any additional fees based on a subscriber's use of the cToM data feed, *e.g.,* displayed versus non-displayed use, and does not propose to impose any individual per user fees.

As it does today for ToM, the Exchange proposes to assess cToM fees to Internal and External Distributors in each month the Distributor is credentialed to use cToM in the production environment. Also, as the Exchange does today for ToM, market data fees for cToM will be reduced for new Distributors for the first month during which they subscribe to cToM, based on the number of trading days that have been held during the month prior to the date on which that subscriber has been credentialed to use cToM in the production environment. New cToM Distributors will be assessed a pro-rata percentage of the fees listed in the table in Section (6)(a) of the Fee Schedule, which is the percentage of the number of trading days remaining in the affected calendar month as of the date on which they have been credentialed to use cToM in the production environment, divided by the total number of trading days in the affected calendar month.

The Exchange also proposes to amend the paragraph below the table of fees for ToM and cToM in Section (6)(a) of the Fee Schedule to make a minor, non-substantive correction by deleting the phrase ''(as applicable)'' in the first sentence following the table of fees for ToM and cToM. The purpose of this proposed change is to remove unnecessary text from the Fee Schedule.

cToM Content Is Available From Alternative Sources

cToM is not the exclusive source for Complex Order information from the Exchange. It is a business decision of market participants whether to subscribe to cToM or not. Market participants that choose not to subscribe

[9] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[10] The term ''order'' means a firm commitment to buy or sell option contracts. *See* Exchange Rule 100.

[11] The term ''quote'' or ''quotation'' means a bid or offer entered by a Market Maker that is firm and may update the Market Maker's previous quote, if any. The Rules of the Exchange provide for the use of different types of quotes, including Standard quotes and eQuotes, as more fully described in Rule 517. A Market Maker may, at times, choose to have multiple types of quotes active in an individual option. *See* Exchange Rule 100.

[12] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[13] The term ''Simple Order Book'' means ''the Exchange's regular electronic book of orders and quotes.'' *See* Exchange Rule 518(a)(15).

[14] *See* Fee Schedule, Section (6)(a).

[15] A ''Distributor'' of MIAX data is any entity that receives a feed or file of data either directly from MIAX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All Distributors are required to execute a MIAX Distributor Agreement. *See* Fee Schedule, Section (6)(a).

[16] *See* Exchange Rule 518(a)(5) for the definition of Complex Orders.

[17] *See* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26) (Order Approving a Proposed Rule Change to Adopt New Rules to Govern the Trading of Complex Orders).

[18] *See* Securities Exchange Act Release No. 79146 (October 24, 2016), 81 FR 75171 (October 28, 2016) (SR–MIAX–2016–36) (providing a complete description of the cToM data feed).

[19] The ''Strategy Book'' is the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17).

to cToM can derive much, if not all, of the same information from other Exchange sources, including, for example, the MIAX Order Feed (''MOR'').[20] The following cToM information is included in MOR: the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable orders in the complex strategy on the Exchange; the identification of the complex strategies currently trading on the Exchange; and the status of securities underlying the complex strategy (*e.g.,* halted, open, or resumed). In addition to MOR, complex strategy last sale information can be derived from ToM. Specifically, market participants may deduce that last sale information for multiple trades in related options series with the same timestamps disseminated via ToM are likely part of a Complex Order transaction and last sale.

Additional Discussion—cToM Background

In the six years since the Exchange adopted Complex Order functionality, the Exchange has grown its monthly complex market share from 0% to 13.41% of the total electronic complex non-index volume executed on exchanges offering electronic complex functionality for the month of April 2023.[21] During that same period, the Exchange has had a steady increase in the number of cToM subscribers. Until the Exchange initially filed to adopt cToM fees in July of 2021, the Exchange did not charge fees for cToM data provided by the Exchange.

The objective of this approach was to eliminate any fee-based barriers for Members when the Exchange launched Complex Order functionality in 2016, which the Exchange believes has been helpful in its ability to attract order flow as a relatively new exchange. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for providing cToM at approximately $278,863. In order to establish fees that are designed to recover the aggregate costs of providing cToM plus a reasonable mark-up, the Exchange is proposing to modify its Fee Schedule, as described above. In addition to the Cost Analysis, described below, the Exchange believes that its proposed approach to market data fees is reasonable based on a comparison to competitors.

Additional Discussion—Comparison With Other Exchanges

ToM

The proposed fees for ToM are comparable to the fees currently in place for the options exchanges, particularly Nasdaq ISE, LLC (''ISE'').[22] In April 2023, the Exchange had 5.89% market share of equity options volume; for that same month, ISE had 5.41% market share of equity options volume.[23] The Exchange's proposed fees for ToM are equal to, and for Internal Distributors, lower than, the rates data recipients pay for comparable data feeds from ISE. The Exchange notes that other competitors maintain fees applicable to market data that are considerably higher than those proposed by the Exchange, including NYSE Arca, Inc. (''NYSE Arca'').[24] However, the Exchange has focused its comparison on ISE because it is the closest market in terms of market share and offers market data at prices lower than several other incumbent exchanges. The fees for the Nasdaq ISE Top Quote Feed, which like ToM, includes top of book, trades, and security status messages, consists of an internal distributor access fee of $3,000 per month (50% higher than the Exchange's proposed rate), and an external distributor access fee of $3,000 per month (equal to the Exchange's proposed rate).[25] ISE's overall charge to receive the Nasdaq ISE Top Quote Feed may be even higher than the Exchange's proposed rates because ISE charges additional per controlled device fees that can cause the distribution fee to reach up to $5,000 per month.[26] The Exchange's proposed rates do not include additional fees.

cToM

The proposed fees for cToM are comparable to the fees currently in place for competing options exchanges, particularly NYSE American, LLC (''NYSE American'').[27] As noted above, for the month of April 2023, the Exchange had 5.89% of the total equity options market share and 13.41% of the total electronic complex non-index volume executed on exchanges offering electronic complex functionality. For that same month, NYSE American had 7.08% of the total equity options market share and 6.92% of the total electronic complex non-index volume.[28] The Exchange proposes fees for cToM that are comparable to the rates data recipients pay for comparable data feeds from NYSE American. The Exchange has focused its comparison on NYSE American because it is the closest market in terms of market share. The fees for the NYSE American Options Complex, which, like cToM, includes top of book, trades, and security status messages for complex orders, consists of an internal distributor access fee of $1,500 per month (slightly lower than the Exchange's proposed rate), and an external distributor access fee of $1,000 per month (resulting in a total external distribution fee of $2,500 per month).[29] However, NYSE American's overall charge to receive NYSE American Options Complex data may be even higher than the Exchange's proposed rates because NYSE American charges additional non-displayed usage fees (each are $1,000 per month and a subscriber may pay multiple non-displayed usage fees), per user fees ($20 per month for professional users and $1.00 per month for non-professional users), and multiple data feed fees ($200 per month), all of which the Exchange does not propose to charge. These additional charges by NYSE American can cause the total cost to receive NYSE American Complex data to far exceed the rates that the Exchange proposes to charge.

[20] *See* MIAX website, Market Data & Offerings, *available at https://www.miaxglobal.com/company/data/data-products-services/market-data* (last visited June 7, 2023). In general, MOR provides real-time ultra-low latency updates on the following information: new Simple Orders added to the MIAX Order Book; updates to Simple Orders resting on the MIAX Order Book; new Complex Orders added to the Strategy Book (*i.e.,* the book of Complex Orders); updates to Complex Orders resting on the Strategy Book; MIAX listed series updates; MIAX Complex Strategy definitions; the state of the MIAX System; and MIAX's underlying trading state.

[21] The Exchange notes that it receives complex market data for all U.S. options exchanges that offer complex functionality from direct feeds from The Options Price Reporting Authority (''OPRA'').

[22] *See* ISE Options 7 Pricing Schedule, Section 10, H., *available at https://listingcenter.nasdaq.com/rulebook/ise/rules/ISE%20Options%207* (assessing Professional internal and external distributors $3,000 per month, plus $20 per month per controlled device for ISE's Top Quote Feed).

[23] *See* the ''Market Share'' section of the Exchange's website, *available at https://www.miaxglobal.com/* (last visited June 7, 2023).

[24] Fees for the NYSE Arca Options Top Feed, which is the comparable product to ToM, are $3,000 per month for access (internal use) and an additional $2,000 per month for redistribution (external distribution), compared to the Exchange's proposed fees of $2,000 and $3,000 for Internal and External Distributors, respectively. In addition, for its NYSE Arca Options Top Feed, NYSE Arca charges for three different categories of non-display usage, and user fees, both of which the Exchange does not propose to charge, causing the overall cost of NYSE Arca Options Top Feed to far exceed the Exchange's proposed rates. *See* NYSE Acra Options Proprietary Market Data Fees, *available at: https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Options_Proprietary_Data_Fee_Schedule.pdf.*

[25] *See supra* note 22.

[26] *Id.*

[27] *See* NYSE American Options Proprietary Market Data Fees, *available at https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Options_Market_Data_Fee_Schedule.pdf.*

[28] *See supra* note 23.

[29] *See supra* note 27.

Additional Discussion—Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs.

Accordingly, in proposing to charge fees for market data, the Exchange is especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and in carefully and transparently assessing the impact on Members—both generally and in relation to other Members—to ensure the fees will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange does not believe it needs to otherwise address questions about market competition in the context of this filing because the proposed fees are so clearly consistent with the Act based on its Cost Analysis. The Exchange also believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[30] and Rule 19b–4 thereunder,[31] with respect to the types of information self-regulatory organizations (''SROs'') should provide when filing fee changes, and Section 6(b) of the Act,[32] which requires, among other things, that exchange fees be reasonable and equitably allocated,[33] not designed to permit unfair discrimination,[34] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[35] This rule change proposal addresses those requirements, and the analysis and data in this section are designed to clearly and comprehensively show how they are met.[36]

As noted above, the Exchange has conducted and recently updated a study of its aggregate costs to produce the ToM and cToM data feeds—the Cost Analysis.[37] The Cost Analysis required a detailed analysis of the Exchange's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transactions, market data, membership services, physical connectivity, and ports (which provide order entry, cancellation and modification functionality, risk functionality, ability to receive drop copies, and other functionality). The Exchange separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (collectively, ''cost drivers'').

As an initial step, the Exchange determined the total cost for the Exchange and the affiliated markets for each cost driver as part of its 2023 budget review process. The 2023 budget review is a company-wide process that occurs over the course of many months, includes meetings among senior management, department heads, and the Finance Team. Each department head is required to send a ''bottoms up'' budget to the Finance Team allocating costs at the profit and loss account and vendor levels for each Exchange and its affiliated markets based on a number of factors, including server counts, additional hardware and software utilization, current or anticipated functional or non-functional development projects, capacity needs, end-of-life or end-of-service intervals, number of members, market model (*e.g.,* price time or pro-rata, simple only or simplex and complex markets, auction functionality, etc.), which may impact message traffic, individual system architectures that impact platform size,[38] storage needs, dedicated infrastructure versus shared infrastructure allocated per platform based on the resources required to support each platform, number of available connections, and employees allocated time. All these factors result in different allocation percentages among the Exchange and its affiliated markets, *i.e.,* the different percentages of the overall cost driver allocated to the Exchange and its affiliated markets will cause the dollar amount of the overall cost allocated among the Exchange and its affiliated markets to also differ. Because the Exchange's parent company currently owns and operates four separate and distinct marketplaces, the Exchange must determine the actual costs associated with its actual market—as opposed to the Exchange's parent company simply summarily concluding that all costs drivers are the same at each individual marketplace, and merely dividing total costs by four (evenly for each marketplace). Rather, the Exchange's parent company determines actual cost for each marketplace, which results in different allocations and amounts across exchanges for the same cost drivers, due to the unique factors of each marketplace as described above. This allocation methodology ensures that no portion of any cost would be allocated twice or double-counted between the Exchange and its affiliated markets. The Finance Team then consolidates the budget and sends it to senior management, including the Chief Financial Officer and Chief Executive Officer, for review and approval. Next, the budget is presented to the Board of Directors and the Finance and Audit Committees for each exchange for approval. The above steps encompass the first step of the cost allocation process.

The next step involves determining what portion of the cost allocated to the Exchange pursuant to the above methodology is to be allocated to each core service, *e.g.,* connectivity and ports, market data, and transaction services. The Exchange and its affiliated markets adopted an allocation methodology with thoughtful and consistently applied principles to guide how much of a particular cost amount allocated to the Exchange pursuant to the above methodology should be allocated within the Exchange to each core service. This is the final step in the

[30] 15 U.S.C. 78s(b)(1).

[31] 17 CFR 240.19b–4.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(4).

[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78f(b)(8).

[36] In 2019, Commission staff published guidance suggesting the types of information that SROs may use to demonstrate that their fee filings comply with the standards of the Exchange Act (''Fee Guidance''). While the Exchange understands that the Fee Guidance does not create new legal obligations on SROs, the Fee Guidance is consistent with the Exchange's view about the type and level of transparency that exchanges should meet to demonstrate compliance with their existing obligations when they seek to charge new fees. *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) *available at https://www.sec.gov/tm/staff-guidancesro-rule-filings-fees.*

[37] The Exchange notes that its Cost Analysis is based on that conducted by MEMX, LLC (''MEMX''). *See* Securities Exchange Act Release Nos. 95936 (September 27, 2022), 87 FR 59845 (October 3, 2022) (SR–MEMX–2022–26); *and* 96430 (December 1, 2022), 87 FR 75083 (December 7, 2022) (SR–MEMX–2022–32). The Exchange notes that the percentage allocations and cost levels are based on the Exchange's 2023 estimated budget and may differ from those provided by MEMX for a number of reasons, including the Exchange's ability to allocate costs among multiple exchanges while MEMX allocates cost to a single exchange.

[38] For example, the Exchange maintains 24 matching engines, MIAX Pearl Options maintains 12 matching engines, MIAX Pearl Equities maintains 24 matching engines, and MIAX Emerald maintains 12 matching engines.

cost allocation process and is applied to each of the cost drivers set forth below. For instance, fixed costs that are not driven by client activity (*e.g.,* message rates), such as data center costs, were allocated more heavily to the provision of physical connectivity (60.6% of total expense amount allocated to 10Gb connectivity, with smaller allocations to additional Limited Service MEI Ports (7.2%), and the remainder to the provision of membership services, transaction execution and market data services (32.3%)). This next level of the allocation methodology at the individual exchange level also took into account a number of factors similar to those set forth under the first step of the allocation methodology process described above, to determine the appropriate allocation to connectivity or market data versus what is to be allocated to providing other services. The allocation methodology was developed through an assessment of costs with senior management intimately familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an estimated allocation of each cost driver to each core service, resulting in the cost allocations described below. Each of the below cost allocations is unique to the Exchange and represents a percentage of overall cost that was allocated to the Exchange pursuant to the initial allocation described above.

By allocating segmented costs to each core service, the Exchange was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has five primary sources of revenue that it can potentially use to fund its operations: transaction, access, membership, regulatory, and market data fees. Accordingly, the Exchange generally must cover its expenses from these five primary sources of revenue. The Exchange also notes that as a general matter each of these sources of revenue is based on services that are interdependent. For instance, the Exchange's system for executing transactions is dependent on physical hardware and connectivity; only Members and parties that they sponsor to participate directly on the Exchange may submit orders to the Exchange; many Members (but not all) consume market data from the Exchange in order to trade on the Exchange; and, the Exchange consumes market data from external sources in order to comply with regulatory obligations. Accordingly, given this interdependence, the allocation of costs to each service or revenue source required judgment of the Exchange and was weighted based on estimates of the Exchange that the Exchange believes are reasonable, as set forth below. While there is no standardized and generally accepted methodology for the allocation of an exchange's costs, the Exchange's methodology is the result of an extensive review and analysis and will be consistently applied going forward for any other potential fee proposals. In the absence of the Commission attempting to specify a methodology for the allocation of exchanges' interdependent costs, the Exchange will continue to be left with its best efforts to attempt to conduct such an allocation in a thoughtful and reasonable manner.

Through the Exchange's extensive Cost Analysis, which was again recently updated, the Exchange analyzed nearly every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of ToM and cToM data feeds, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of ToM and cToM data feeds, and thus bears a relationship that is, ''in nature and closeness,'' directly related to ToM and cToM data feeds. Based on its analysis, the Exchange calculated its aggregate annual costs for providing the ToM and cToM data feeds to be $650,680. This results in a monthly cost for providing ToM and cToM data feeds of $54,223 (rounded to the nearest dollar when dividing the aggregate annual cost by 12 months). In order to cover operating costs and earn a reasonable profit on its market data, the Exchange has determined it is necessary to charge fees for its proprietary data products, and, as such, the Exchange is proposing to modify its Fee Schedule, as set forth above. With the proposed fee changes, the Exchange anticipates annual revenue for ToM and cToM to be $840,000 (or $70,000 per month combined).

Costs Related To Offering ToM and cToM Data Feeds

The following chart details the individual line-item (annual) costs considered by the Exchange to be related to offering the ToM and cToM data feeds to its Members and other customers, as well as the percentage of the Exchange's overall costs that such costs represent for such area (*e.g.,* as set forth below, the Exchange allocated approximately 2.4% of its overall Human Resources cost to offering ToM and cToM data feeds).

Cost drivers	Allocated costs	% of total cost
Human Resources	$367,278	2.4
Network Infrastructure (fiber connectivity)	1,695	1.5
Data Center	17,371	1.5
Hardware and Software Maintenance & Licenses	21,375	1.5
Depreciation	34,091	0.9
Allocated Shared Expenses	208,870	2.6
Total	650,680	2.1

Human Resources

For personnel costs (Human Resources), the Exchange calculated an allocation of employee time for employees whose functions include directly providing services necessary to offer the ToM and cToM data feeds, including performance thereof, as well as personnel with ancillary functions related to establishing and providing such services (such as information security and finance personnel). The Exchange notes that it and its affiliated markets have approximately 184 employees (excluding employees at non-options exchange subsidiaries of Miami International Holdings, Inc. (''MIH''), the holding company of the Exchange and its affiliates, MIAX Pearl and MIAX Emerald), and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. Specifically, twice a year and as needed with additional new hires and new project initiatives, in consultation with

employees as needed, managers and department heads assign a percentage of time to every employee and then allocate that time amongst the Exchange and its affiliated markets to determine that market's individual Human Resources expense. Then, again managers and department heads assign a percentage of each employee's time allocated to the Exchange into buckets including network connectivity, ports, market data, and other exchange services. This process ensures that every employee is 100% allocated, ensuring there is no double counting between the Exchange and its affiliated markets.

The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing the ToM and cToM data feeds, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of their time such employees devote to tasks related to providing the ToM and cToM data feeds. The Exchange notes that senior level executives were allocated Human Resources costs to the extent the Exchange believed they are involved in overseeing tasks related to providing the ToM and cToM data feeds. The Exchange's cost allocation for employees who perform work in support of generating and disseminating the ToM and cToM data feeds on behalf of the Exchange's options trading platform arrived at a full time equivalent (''FTE'') of 1.2 FTEs.[39] This includes personnel from the following Exchange departments that are predominately involved in producing Exchange market data: Business Systems Development, Trading Systems Development, Systems Operations and Network Monitoring, Network and Data Center Operations, Listings, Trading Operations, and Project Management. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Network Infrastructure

The Network Infrastructure cost includes cabling and switches required to generate and disseminate the ToM and cToM data feeds. The Network Infrastructure cost was narrowly estimated by focusing on the servers used at the Exchange's primary and back-up data centers specifically for the ToM and cToM data feeds. Further, as certain servers are only partially utilized to generate and disseminate the ToM and cToM data feeds, only the percentage of such servers devoted to generating and disseminating the ToM and cToM data feeds was included (*i.e.,* the capacity of such servers allocated to the ToM and cToM data feeds).[40]

The Exchange notes that while the percentage it and its affiliate, MIAX Emerald, allocated to network infrastructure are nearly identical, the Exchange's dollar amount is lower than MIAX Emerald by approximately $8,000 (a relatively small amount). It is important to note that, while both exchanges operate on state-of-the-art technology, the Exchange and MIAX Emerald do not have an identical network architecture and, as a result, do not have identical needs (and costs) for all other components, including, cabling and switches. In 2020, MIAX Emerald made significant enhancements to its network environment to ensure a best-in-class, transparent and highly deterministic trading system while maintaining industry leading latency and throughput capabilities. This highly deterministic system on MIAX Emerald requires different cabling and switches to support lower latency and to ensure that MIAX Emerald order book updates sent via the MIAX Emerald ToM and cToM data feeds (and to OPRA) are disseminated as quickly as possible to all Members and non-Members. MIAX Emerald's different switches and cabling, and the ongoing maintenance and monitoring of those cables and switches, results in a greater allocated dollar amount to its network infrastructure than to the Exchange.

Data Center

The Exchange does not own the primary data center or the secondary data center, but instead leases space in data centers operated by third parties where the Exchange houses servers, switches and related equipment. Data Center costs include an allocation of the costs the Exchange incurs to provide the ToM and cToM data feeds in the third-party data centers where the Exchange maintains its equipment, as well as related costs. As the Data Center costs are primarily for space, power, and cooling of servers, the Exchange allocated 1.5% to the applicable Data Center costs for the ToM and cToM data feeds. The Exchange believes it is reasonable to apply the same proportionate percentage of Data Center costs to that of Network Infrastructure.

Hardware and Software Maintenance and Licenses

Hardware and Software Maintenance and Licenses includes those licenses used to operate and monitor physical assets necessary to offer the ToM and cToM data feeds. Because the hardware and software license fees are correlated to the servers used by the Exchange, the Exchange again applied an allocation of 1.5% of its costs for Hardware and Software Maintenance and Licenses to the ToM and cToM data feeds.[41]

Monthly Depreciation

The vast majority of the software the Exchange uses for its operations to generate and disseminate the ToM and cToM data feeds has been developed in-house over an extended period. This software development also requires quality assurance and thorough testing to ensure the software works as intended. Hardware used to generate and disseminate the ToM and cToM data feeds, which includes servers and other physical equipment the Exchange purchased. Accordingly, the Exchange included depreciation costs related to depreciated hardware and software used to generate and disseminate the ToM and cToM data feeds. The Exchange also included in the Depreciation costs certain budgeted improvements that the Exchange intends to capitalize and depreciate with respect to the ToM and cToM data feeds in the near-term. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost was therefore narrowly tailored to depreciation related to the ToM and cToM data feeds.

The Exchange notes that this allocation differs from its affiliated

[39] The Exchange notes that overall cost percentages allocated for employees in this and other areas may differ due to differing levels of compensation for individual employees assigned to similar projects at different exchanges, which is driven by additional factors such as overall performance and seniority. So, for example, as is the case here, the same number of FTEs for similar responsibilities would not result in the same cost percentage.

[40] The Exchange understands that the Investors Exchange, Inc. (''IEX'') and MEMX both allocated a percentage of their servers to the production and dissemination of market data to support proposed market data fees. *See* Securities Exchange Act Release No. 94630 (April 7, 2022), 87 FR 21945, at page 21949 (April 13, 2022) (SR–IEX–2022–02). *See also supra* note 37. The Exchange does not have insight into either MEMX's or IEX's technology infrastructure or what their determinations were based on. However, the Exchange reviewed its own technology infrastructure and believes based on its design, it is more appropriate for the Exchange to allocate a portion of its network infrastructure cost to market data based on a percentage of overall cost, not on a per server basis.

[41] This expense may be less than the Exchange's affiliated markets, specifically MIAX Pearl, because, unlike the Exchange, MIAX Pearl (the options and equities markets) maintains an additional gateway to accommodate its member's access and connectivity needs. This added gateway contributes to the difference in allocations between the Exchange and MIAX Pearl.

markets due to a number of factors, such as the age of physical assets and software (*e.g.,* older physical assets and software were previously depreciated and removed from the allocation), or certain system enhancements that required new physical assets and software, thus providing a higher contribution to the depreciated cost. For example, the Exchange notes that percentages it and its affiliate, MIAX Emerald, allocated to the depreciation of software and hardware used to generate and disseminate their respective ToM and cToM data feeds are nearly identical. However, the Exchange's dollar amount is greater than that of MIAX Emerald by approximately $13,000 (albeit a relatively small amount). This is due to two primary factors. First, the Exchange has undergone a technology refresh since the time MIAX Emerald launched in February 2019, leading to it having more hardware and software that is subject to depreciation. Second, the Exchange maintains 24 matching engines while MIAX Emerald maintains only 12 matching engines. This also results in more of the Exchange's hardware and software being subject to depreciation than MIAX Emerald's hardware and software due to the greater amount of equipment and software necessary to support the greater number of matching engines on the Exchange.

Allocated Shared Expenses

Finally, certain general shared expenses were allocated to the ToM and cToM data feeds. However, contrary to its prior cost analysis, rather than taking the whole amount of general shared expenses and applying an allocated percentage, the Exchange has narrowly selected specific general shared expenses relevant to the cToM data feed. The costs included in general shared expenses allocated to the ToM and cToM data feeds include office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external and internal audit expenses), and telecommunications costs. The cost of paying individuals to serve on the Exchange's Board of Directors or any committee was not allocated to providing ToM and cToM data feeds.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core service and did not double-count any expenses. Instead, as described above, the Exchange identified and allocated applicable cost drivers across its core services and used the same approach to analyzing costs to form the basis of separate proposals to amend fees for connectivity and port services [42] and this filing proposing fees for ToM and cToM. Thus, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams. The proposed fees for ToM and cToM data feeds are designed to permit the Exchange to cover the costs allocated to providing cToM data with a mark-up that the Exchange believes is modest (approximately 23%, which could decrease over time [43]), which the Exchange believes is fair and reasonable after taking into account the costs related to creating, generating, and disseminating the ToM and cToM data feeds and the fact that the Exchange will need to fund future expenditures (increased costs, improvements, etc.). The Exchange also notes that this profit margin differs slightly from the profit margin set forth in a similar fee filing by its affiliate, MIAX Emerald. This is not atypical among exchanges and is due to a number of factors that differ between these two exchanges, including a different number of market data subscribers, different costs as described in the cost allocation methodology above, and a different number of matching engines, *i.e.,* the Exchange maintains 24 matching engines while MIAX Emerald maintains only 12 matching engines.

Further, the Exchange and MIAX Emerald propose to charge the same rates for their respective ToM and cToM data feeds, which are comparable to, or lower than, similar fees for similar products charged by competing exchanges. For example, for Internal Distributors of ToM and cToM, the Exchange proposes a lower fee than the fee charged by ISE for ISE's Top Quote Feed ($2,000 for the Exchange vs. $3,000 for ISE).[44] NYSE Arca charges even higher fees for the NYSE Arca Options Top Feed than the Exchange's proposed fees ($2,000 for the Exchange vs. $3,000 per month plus an additional $2,000 for redistribution on NYSE Arca).[45] Accordingly, the Exchange believes that comparable and competitive pricing are key factors in determining whether a proposed fee meets the requirements of the Act, regardless of whether that same fee across the Exchange's affiliated markets leads to slightly different profit margins due to factors outside of the Exchange's control (*i.e.,* more subscribers to ToM and/or cToM on MIAX or MIAX Emerald and vice versa).

The Exchange also reiterates that prior to July of 2021, the month in which it first proposed to adopt fees for cToM, the Exchange did not charge any fees for cToM and its allocation of costs to cToM was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses. The Exchange is owned by a holding company that is the parent company of four exchange markets and, therefore, the Exchange and its affiliated markets must allocate shared costs across all of those markets accordingly, pursuant to the above-described allocation methodology. In contrast, the Investors Exchange LLC (''IEX'') and MEMX, which are currently each operating only one exchange, in their recent non-transaction fee filings allocate the entire amount of that same cost to a single exchange. This can result in lower profit margins for the non-transaction fees proposed by IEX and MEMX because the single allocated cost does not experience the efficiencies and synergies that result from sharing costs across multiple platforms.[46] The Exchange and its affiliated markets often share a single cost, which results in cost efficiencies that can cause a broader gap between the allocated cost amount and projected revenue, even though the fee levels being proposed are lower or competitive with competing markets (as described above). To the extent that the application of a cost-based standard results in Commission Staff making determinations as to the appropriateness of certain profit margins, the

[42] *See* MIAX Exchange Group Alert, ''MIAX Options, Pearl Options and Emerald Options Exchanges—January 1, 2023 Non-Transaction Fee Changes,'' issued December 9, 2022, *available at https://www.miaxglobal.com/alert/2022/12/09/miax-options-pearl-options-and-emerald-options-exchanges-january-1-2023-non.*

[43] The Exchange believes that its profit margins could decrease if U.S. inflation continues at its current rate. *See, e.g., https://www.usinflationcalculator.com/inflation/current-inflation-rates/* (last visited June 7, 2023).

[44] *See supra* note 22.

[45] *See supra* note 24.

[46] The Exchange acknowledges that IEX included in its proposal to adopt market data fees after offering market data for free an analysis of what its projected revenue would be if all of its existing customers continued to subscribe versus what its projected revenue would be if a limited number of customers subscribed due to the new fees. *See* Securities Exchange Act Release No. 94630 (April 7, 2022), 87 FR 21945 (April 13, 2022) (SR–IEX–2022–02). MEMX did not include a similar analysis in either of its recent non-transaction fee proposals. *See, e.g., supra* note 37. The Exchange does not believe a similar analysis would be useful here because it is amending existing fees, not proposing to charge a new fee where existing subscribers may terminate connections because they are no longer enjoying the service at no cost.

Commission Staff should consider whether the proposed fee level is comparable to, or competitive with, the same fee charged by competing exchanges and how different cost allocation methodologies (such as across multiple markets) may result in different profit margins for comparable fee levels. If Commission Staff is making determinations as to appropriate profit margins, the Exchange believes that the Commission should be clear to all market participants as to what they have determined is an appropriate profit margin and should apply such determinations consistently and, in the case of certain legacy exchanges, retroactively, if such standards are to avoid having a discriminatory effect. Further, the proposal reflects the Exchange's efforts to control its costs, which the Exchange does on an ongoing basis as a matter of good business practice. A potential profit margin should not be judged alone based on its size, but is also indicative of costs management and whether the ultimate fee reflects the value of the services provided. For example, a profit margin on one exchange should not be deemed excessive where that exchange has been successful in controlling its costs, but not excessive where on another exchange where that exchange is charging comparable fees but has a lower profit margin due to higher costs. Doing so could have the perverse effect of not incentivizing cost control where higher costs alone are used to justify fees increases.

Accordingly, while the Exchange is supportive of transparency around costs and potential margins (applied across all exchanges), as well as periodic review of revenues and applicable costs (as discussed below), the Exchange does not believe that these estimates should form the sole basis of whether or not a proposed fee is reasonable or can be adopted. Instead, the Exchange believes that the information should be used solely to confirm that an Exchange is not earning—or seeking to earn—supra-competitive profits, the standard set forth in the Fee Guidance. The Exchange believes the Cost Analysis and related projections in this filing demonstrate this fact.

The Exchange notes that the Cost Analysis is based on the Exchange's 2023 fiscal year of operations and projections. It is possible, however, that such costs will either decrease or increase. To the extent the Exchange sees growth in use of ToM and cToM data feeds it will receive additional revenue to offset future cost increases. However, if use of ToM and cToM data feeds is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs.

Similarly, the Exchange expects that it would propose to decrease fees in the event that revenue materially exceeds current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and expects that it would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

Implementation

The proposed fee changes are immediately effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[47] of the Act in general, and furthers the objectives of Section 6(b)(4)[48] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5)[49] of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes prior to addressing the specific reasons the Exchange believes the proposed fees and fee structure are reasonable, equitably allocated and not unreasonably discriminatory, that the proposed fees are consistent with the fee amounts charged by competing U.S. securities exchanges. For this reason, the Exchange believes that the proposed fees are consistent with the Act generally, and Section 6(b)(5)[50] of the Act in particular.

As noted above, in the six years since the Exchange adopted Complex Order functionality, the Exchange has grown its monthly complex market share from 0% to 13.41% of the total electronic complex non-index volume executed on U.S. options exchanges offering complex functionality for the month of April 2023.[51] One of the primary objectives of the Exchange is to provide competition and to reduce fixed costs imposed upon the industry. Consistent with this objective, the Exchange believes that this proposal reflects a simple, competitive, reasonable, and equitable pricing structure.

Reasonableness

Overall. With regard to reasonableness, the Exchange understands that the Commission has traditionally taken a market-based approach to examine whether the SRO making the fee proposal was subject to significant competitive forces in setting the terms of the proposal. The Exchange understands that in general the analysis considers whether the SRO has demonstrated in its filing that (i) there are reasonable substitutes for the product or service; (ii) ''platform'' competition constrains the ability to set the fee; and/or (iii) revenue and cost analysis shows the fee would not result in the SRO taking supra-competitive profits. If the SRO demonstrates that the fee is subject to significant competitive forces, the Exchange understands that in general the analysis will next consider whether there is any substantial countervailing basis to suggest the fee's terms fail to meet one or more standards under the Exchange Act. The Exchange further understands that if the filing fails to demonstrate that the fee is constrained by competitive forces, the

[47] 15 U.S.C. 78f.

[48] 15 U.S.C. 78f(b)(4).

[49] 15 U.S.C. 78f(b)(5).

[50] 15 U.S.C. 78f(b)(5).

[51] *See supra* note 23.

SRO must provide a substantial basis, other than competition, to show that it is consistent with the Exchange Act, which may include production of relevant revenue and cost data pertaining to the product or service.

The Exchange has not determined its proposed overall market data fees based on assumptions about market competition, instead relying upon a cost-plus model to determine a reasonable fee structure that is informed by the Exchange's understanding of different uses of the products by different types of participants. In this context, the Exchange believes the proposed fees overall are fair and reasonable as a form of cost recovery plus the possibility of a reasonable return for the Exchange's aggregate costs of offering the ToM and cToM data feeds. The Exchange believes the proposed fees are reasonable because they are designed to generate annual revenue to recoup some or all of Exchange's annual costs of providing ToM and cToM data with a reasonable mark-up. As discussed in the Purpose section, the Exchange estimates this fee filing will result in annual revenue of approximately $840,000, representing a potential mark-up of just 23% over the cost of providing ToM and cToM data. Accordingly, the Exchange believes that this fee methodology is reasonable because it allows the Exchange to recoup all of its expenses for providing the ToM and cToM data products (with any additional revenue representing no more than what the Exchange believes to be a reasonable rate of return). The Exchange also believes that the proposed fees are reasonable because they are generally less than the fees charged by competing options exchanges for comparable market data products, notwithstanding that the competing exchanges may have different system architectures that may result in different cost structures for the provision of market data.

The Exchange believes the proposed fees for the ToM and cToM data feeds are reasonable when compared to fees for comparable products, compared to which the Exchange's proposed fees are generally lower, as well as other comparable data feeds priced significantly higher than the Exchange's proposed fees for the ToM and cToM data feeds.[52]

Internal Distribution Fees. The Exchange believes that it is reasonable to charge fees to access the ToM and cToM data feeds for Internal Distribution because of the value of such data to subscribers in their profit-generating activities. The Exchange also believes that the proposed monthly Internal Distribution fee for cToM is reasonable as it is similar to the amount charged by at least one other exchange of comparable size for comparable data products, and lower than the fees charged by other exchange for comparable data products.[53]

External Distribution Fees. The Exchange believes that it is reasonable to charge External Distribution fees for the ToM and cToM data feeds because vendors receive value from redistributing the data in their business products provided to their customers. The Exchange believes that charging External Distribution fees is reasonable because the vendors that would be charged such fees profit by re-transmitting the Exchange's market data to their customers. These fees would be charged only once per month to each vendor account that redistributes any ToM and cToM data feeds, regardless of the number of customers to which that vendor redistributes the data.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the ToM and cToM data feeds are reasonable.

Equitable Allocation

Overall. The Exchange believes that its proposed fees are reasonable, fair, and equitable, and not unfairly discriminatory because they are designed to align fees with services provided. The Exchange believes the proposed fees for the ToM and cToM data feeds are allocated fairly and equitably among the various categories of users of the feeds, and any differences among categories of users are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all data recipients that choose to subscribe to the ToM and cToM data feeds. Any subscriber or vendor that chooses to subscribe to the ToM and cToM data feeds is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to subscribe to one or more ToM and cToM data feeds is based on objective differences in usage of ToM and cToM data feeds among different Members, which are still ultimately in the control of any particular Member. The Exchange believes the proposed pricing of the ToM and cToM data feeds is equitably allocated because it is based, in part, upon the amount of information contained in each data feed and the value of that information to market participants.

Internal Distribution Fees. The Exchange believes the proposed monthly fees for Internal Distribution of the ToM and cToM data feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the ToM and cToM data feeds for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for External Distribution of the ToM and cToM data feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the ToM and cToM data feeds that choose to redistribute the feeds externally, regardless of what business they operate. The Exchange also believes that the proposed monthly fees for External Distribution are equitably allocated when compared to lower proposed fees for Internal Distribution because data recipients that are externally distributing ToM and cToM data feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess Internal Distributors fees that are less than the fees assessed for External Distributors for subscriptions to the ToM and cToM data feeds because Internal Distributors have limited, restricted usage rights to the market data, as compared to External Distributors, which have more expansive usage rights. All Members and non-Members that decide to receive any market data feed of the Exchange (or its affiliates, MIAX Pearl and MIAX Emerald), must first execute, among other things, the MIAX Exchange Group Exchange Data Agreement (the ''Exchange Data Agreement'').[54] Pursuant to the Exchange Data Agreement, Internal Distributors are restricted to the ''internal use'' of any market data they receive. This means that Internal Distributors may only distribute the Exchange's market data to the recipient's officers and employees and its affiliates.[55] External Distributors may distribute the Exchange's market data to persons who are not officers, employees or affiliates of the External

[52] *See supra* notes 22, 24, and 27, and accompanying text.

[53] *Id.*

[54] *See* Exchange Data Agreement, *available at https://www.miaxglobal.com/markets/us-options/all-options/market-data-vendor-agreements.*

[55] *See id.*

Distributor,[56] and may charge their own fees for the redistribution of such market data. External Distributors may monetize their receipt of the ToM and cToM data feeds by charging their customers fees for receipt of the Exchange's cToM data. Internal Distributors do not have the same ability to monetize the Exchange's ToM and cToM data feeds. Accordingly, the Exchange believes it is fair, reasonable and not unfairly discriminatory to assess External Distributors a higher fee for the Exchange's ToM and cToM data feeds as External Distributors have greater usage rights to commercialize such market data and can adjust their own fee structures if necessary.

The Exchange also utilizes more resources to support External Distributors versus Internal Distributors, as External Distributors have reporting and monitoring obligations that Internal Distributors do not have, thus requiring additional time and effort of Exchange staff. For example, External Distributors have monthly reporting requirements under the Exchange's Market Data Policies.[57] Exchange staff must then, in turn, process and review information reported by External Distributors to ensure the External Distributors are redistributing cToM data in compliance with the Exchange's Market Data Agreement and Policies.

The Exchange believes the proposed cToM fees are equitable and not unfairly discriminatory because the fee level results in a reasonable and equitable allocation of fees amongst subscribers for similar services, depending on whether the subscriber is an Internal or External Distributor. Moreover, the decision as to whether or not to purchase market data is entirely optional to all market participants. Potential purchasers are not required to purchase the market data, and the Exchange is not required to make the market data available. Purchasers may request the data at any time or may decline to purchase such data. The allocation of fees among users is fair and reasonable because, if market participants decide not to subscribe to the data feed, firms can discontinue their use of the cToM data.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the ToM and cToM data feeds are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees for the ToM and cToM data feeds are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. The Exchange believes that the proposed fees are not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the same ToM and cToM data feeds. Any vendor or subscriber that chooses to subscribe to the ToM and cToM data feeds is subject to the same Fee Schedule, regardless of what type of business they operate. In sum, each vendor or subscriber has the ability to choose the best business solution for itself. The Exchange does not believe it is unfairly discriminatory to base pricing upon the amount of information contained in each data feed and the value of that information to market participants.

Internal Distribution Fees. The Exchange believes the proposed monthly fees for Internal Distribution of the ToM and cToM data feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same ToM and cToM data feeds for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for redistributing the ToM and cToM data feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same ToM and cToM data feeds that choose to redistribute the feed(s) externally. The Exchange also believes that having higher monthly fees for External Distribution than Internal Distribution is not unfairly discriminatory because data recipients that are externally distributing ToM and cToM data feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[58] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposed fees place certain market participants at a relative disadvantage to other market participants because, as noted above, the proposed fees are associated with usage of the data feed by each market participant based on whether the market participant internally or externally distributes the Exchange data, which are still ultimately in the control of any particular Member, and such fees do not impose a barrier to entry to smaller participants. Accordingly, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed fees reflects the types of data consumed by various market participants and their usage thereof.

Inter-Market Competition

The Exchange does not believe the proposed fees place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, market participants are not forced to subscribe to either data feed, as described above. Additionally, other exchanges have similar market data fees with comparable rates in place for their participants.[59] The proposed fees are based on actual costs and are designed to enable the Exchange to recoup its applicable costs with the possibility of a reasonable profit on its investment as described in the Purpose and Statutory Basis sections. Competing exchanges are free to adopt comparable fee structures subject to the Commission's rule filing process. Allowing the Exchange, or any new market entrant, to waive fees (as the Exchange did for cToM) for a period of time to allow it to become established encourages market entry and thereby ultimately promotes competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[56] *See id.*

[57] *See* Section 6 of the Exchange's Market Data Policies, *available at https://www.miaxglobal.com/sites/default/files/page-files/MIAX_Exchange_Group_Market_Data_Policies_07202021.pdf.*

[58] 15 U.S.C. 78f(b)(8).

[59] *See supra* notes 22, 24, and 27, and accompanying text.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[60] and Rule 19b–4(f)(2)[61] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2023–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MIAX–2023–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MIAX–2023–23 and should be submitted on or before July 17, 2023.[62]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13454 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

[60] 15 U.S.C. 78s(b)(3)(A)(ii).

[61] 17 CFR 240.19b–4(f)(2).

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34946; File No. 812–15323]

Vista Credit Strategic Lending Corp. et al.

June 20, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Vista Credit Strategic Lending Corp., Vista Credit BDC Management, L.P., Vista Credit Partners, L.P., Vista Credit CLO Management LLC, Vista Credit Partners Fund III, L.P., Vista Credit Opportunities Fund II, L.P., Vista Opportunistic Credit Fund I, L.P., Vista Opportunistic Credit Fund II, L.P., Vista Opportunistic Credit Fund II–A, L.P., Vista Opportunistic Credit Fund II (2), L.P., Vista Opportunistic Credit Fund II–A (2), L.P., Vista Opportunistic Credit Fund III, L.P., Vista Opportunistic Credit Fund III, L.P., Vista Opportunistic Credit Fund IV, L.P., Vista Capital Solutions Fund L.P., Vista Capital Solutions Fund–A, L.P., VCPF III Co-Invest 1–A, L.P., VCPF III Co-Invest 2–A, L.P., VCPF III Co-Invest 4–A, L.P., VCPF III Co-Invest 5–A, L.P., Vista Co-Invest Fund 2022–1, L.P., Vista Co-Invest Fund 2022–2, L.P., Vista Co-Invest Fund 2022–3, L.P., VCP CLO III, Ltd., Vista Platform Fund I, L.P., Vista Platform Partners, L.P.

FILING DATES: The application was filed on April 15, 2022, and amended on November 10, 2022 and April 21, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on July 17, 2023, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the SEC's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Norman Champ, P.C., at *norm.champ@kirkland.com.*

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, or Kyle R. Ahlgren, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' second amended and restated application, dated April 21, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant, using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may

also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13442 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97741; File No. SR–NYSE–2023–24]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change for Amendments to the Exchange's Rules Regarding Continuing Education Requirements

June 16, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 7, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .70 under NYSE Rule 345A (Eligibility of Other Persons to Participate in the Continuing Education Program Specified in Section (c) of this Rule) applicable to members or member organizations to provide eligible individuals another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The continuing education program for registered persons of broker-dealers (''CE Program'') currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element, which is administered by FINRA on behalf of the Exchange, focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends.

The CE Program is codified under the rules of the self-regulatory organizations. The CE Program for registered persons of NYSE members is codified under Rule 345A.[4] This proposed rule change is based on a filing recently submitted by the Financial Industry Regulatory Authority, Inc. (''FINRA''), and is intended to harmonize the Exchange's continuing education rules with those of FINRA so as to promote uniform standards across the securities industry.[5] The proposed rule change is discussed in detail below.

On May 25, 2022, the Exchange amended NYSE Rules 1210 (Registration Requirements) and 345A (Continuing Education for Registered Persons) to, among other things, provide eligible individuals who terminate any of their representative or principal registration categories the option of maintaining their qualification for any terminated registration categories by completing annual continuing education through a new program, the MQP.[6] By that time, however, the First Enrollment Period, defined below, had expired leaving many eligible individuals from being able to participate in the MQP. This proposed rule change will provide those eligible individuals a second opportunity to elect to participate in the MQP to maintain their qualification.

Prior to the MQP, individuals whose registrations as representatives or principals had been terminated for two or more years could reregister as representatives or principals only if they requalified by retaking and passing the applicable representative- or principal-level examination or if they obtained a waiver of such examination(s) (the ''two-year qualification period''). The MQP provides these individuals an alternative means of staying current on their regulatory and securities knowledge following the termination of a registration.[7] Specifically, the MQP provides eligible individuals a maximum of five years following the termination of a representative or principal registration category to reregister without having to requalify by examination or having to obtain an examination waiver, subject to satisfying the conditions and limitations of the MQP, including the annual completion of all prescribed continuing education.

Under NYSE Rule 345A, Supplementary Material .70, the MQP has a look-back provision that, subject to specified conditions, extended the option to participate in the MQP to individuals who: (1) were registered as a representative or principal within two years immediately prior to May 25, 2022 (the implementation date of the MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (''FSAWP'') under NYSE Rule 1210, Commentary .08 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See also* Commentary .06 to Rule 1210 (All Registered Persons Must Satisfy the Regulatory Element of Continuing Education).

[5] *See* Securities Exchange Act Release No. 97184 (March 22, 2023), 88 FR 18359 (March 28, 2023) (SR–FINRA–2023–005) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 1240.01 To Provide Eligible Individuals Another Opportunity To Elect To Participate in the Maintaining Qualifications Program) (''FINRA Rule Change'').

[6] *See* Securities Exchange Act Release No. 95061 (June 7, 2022), 87 FR 35806 (June 13, 2022) (SR–NYSE–2022–23) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change for Amendments to the Exchange's Rules Regarding Continuing Education Requirements).

[7] The MQP does not eliminate the two-year qualification period. Thus, eligible individuals who elect not to participate in the MQP can continue to avail themselves of the two-year qualification period (*i.e.,* they can reregister within two years of terminating a registration category without having to requalify by examination or having to obtain an examination waiver).

Organization) immediately prior to May 25, 2022 (collectively, ''Look-Back Individuals'').[8]

In the FINRA Rule Change, FINRA noted that in Regulatory Notice 21–41 (November 17, 2021), it announced that Look-Back Individuals who wanted to take part in the MQP were required to make their election between January 31, 2022, and March 15, 2022 (the ''First Enrollment Period''). In addition to the announcement in Regulatory Notice 21–41, FINRA notified the Look-Back Individuals about the MQP and the First Enrollment Period via two separate mailings of postcards to their home addresses and communications through their FINRA Financial Professional Gateway (''FinPro'') accounts.[9]

In the FINRA Rule Change, FINRA further noted that shortly after the First Enrollment Period had ended, a number of Look-Back Individuals contacted FINRA and indicated that they had only recently become aware of the MQP. FINRA noted that it also received anecdotal information that a number of these individuals may not have learned of the MQP, or the First Enrollment Period, in a timely manner, or at all, due to communication and operational issues.[10] In addition, the original six-week enrollment period may not have provided Look-Back Individuals with sufficient time to evaluate whether they should participate in the MQP. For these reasons, FINRA recently amended its rules to provide Look-Back Individuals a second opportunity to elect to participate in the MQP (the ''Second Enrollment Period''). For similar reasons, NYSE is also proposing to amend its rules to provide Look-Back Individuals with a Second Enrollment Period.[11] The Second Enrollment Period will be between the date of filing of this proposed rule change, and December 31, 2023. In addition, the proposed rule change requires that Look-Back Individuals who elect to participate in the MQP during the Second Enrollment Period complete any prescribed 2022 and 2023 MQP content by March 31, 2024.[12]

NYSE believes that Look-Back Individuals generally have greater awareness of the MQP, including due to news coverage, since the program's launch.[13] NYSE believes that greater public awareness of the MQP, coupled with a seven-month enrollment period, should help ensure that all Look-Back Individuals are aware of the MQP and the availability of the Second Enrollment Period and should provide them with ample time to decide whether to participate in the MQP.

Look-Back Individuals who elect to enroll during the Second Enrollment Period would need to notify FINRA of their election to participate in the MQP through a manner to be determined by FINRA.[14] NYSE also notes that Look-Back Individuals who elect to participate in the MQP during the Second Enrollment Period would continue to be subject to all of the other MQP eligibility and participation conditions. For example, as clarified in the proposed rule change, Look-Back Individuals electing to participate during the Second Enrollment Period would have only a maximum of five years following the termination of a registration category in which to reregister without having to requalify by examination or having to obtain an examination waiver.[15]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[16] in general, and furthers the objectives of Section 6(b)(5),[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

NYSE believes that providing Look-Back Individuals a second opportunity to elect to participate in the MQP is warranted because participation in the MQP would reduce unnecessary impediments to requalification for these individuals without diminishing investor protection. In addition, the proposed rule change is consistent with other goals, such as the promotion of diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals. The MQP also allows the industry to retain expertise from skilled individuals, providing investors with the advantage of greater experience among the individuals working in the industry. NYSE believes that providing Look-Back Individuals a second opportunity to elect to participate in the MQP will further these goals and objectives.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change, which harmonizes its rules with the recent rule change adopted by FINRA, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of the CE program requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market

[8] The FSAWP is a waiver program for eligible individuals who have left a member firm to work for a foreign or domestic financial services affiliate of a member firm. NYSE stopped accepting new participants for the FSAWP beginning on May 25, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

[9] Look-Back Individuals were able to notify FINRA of their election to participate in the MQP through their FinPro accounts.

[10] According to FINRA, this may have been a result of the timing of FINRA's announcements relating to the MQP, which coincided with the holiday season and the transition to the New Year. Further, given that Look-Back Individuals were out of the industry at the time of these announcements, it was unlikely that they would have learned of the MQP, or the First Enrollment Period, through informal communication channels.

[11] The current rule text also provides that if Look-Back Individuals elect to participate in the MQP, their five-year participation period will be adjusted by deducting from that period the amount of time that has lapsed between the date that they terminated their registrations and May 25, 2022. To reflect the availability of the Second Enrollment Period, the proposed rule change clarifies that for all Look-Back Individuals who elect to participate in the MQP, their participation period would also be for a period of five years following the termination of their registration categories, as with other MQP participants.

[12] Look-Back Individuals who elect to enroll in the MQP during the Second Enrollment Period would also need to pay the annual program fee of $100 for both 2022 and 2023 at the time of their enrollment.

[13] *See, e.g.,* Joanne Cleaver, FINRA Sets Big Change in Motion with New Option for Licensing Grace Period, InvestmentNews (June 23, 2022), *https://www.investmentnews.com/finra-sets-big-change-in-motion-with-new-option-for-licensing-grace-period-222942.*

[14] In the FINRA Rule Change, FINRA noted that it anticipates that Look-Back Individuals will make their selection to enroll in the MQP during the Second Enrollment Period through their FinPro accounts. *See* Enrolling in the MQP, *https://www.finra.org/registration-exams-ce/finpro/mqp* (describing the MQP enrollment process). FINRA further noted that it will inform Look-Back Individuals if it determines to provide an alternative enrollment method.

[15] For example, if a Look-Back Individual terminated a registration category on May 1, 2020, and elects to participate in the MQP on December 1, 2023, the individual's maximum participation period would be five years starting on May 1, 2020, and ending no later than May 1, 2025. If the individual does not reregister with a member firm by May 1, 2025, the individual would need to requalify by examination or obtain an examination waiver in order to reregister after that date.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

system and promoting competition among participants across the multiple national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

NYSE has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. NYSE has indicated that the immediate operation of the proposed rule change is appropriate because it would allow the Exchange to implement the proposed changes to its continuing education rules without delay, thereby eliminating the possibility of a significant regulatory gap between the FINRA rules and the Exchange rules, providing more uniform standards across the securities industry, and helping to avoid confusion for Exchange members that are also FINRA members. NYSE also noted that FINRA plans to conduct additional public outreach efforts to promote awareness of the MQP and the availability of the Second Enrollment Period among Look-Back Individuals. Therefore, NYSE additionally indicated that the immediate operation of the proposed rule change is appropriate because it would ensure that there is sufficient time for Look-Back Individuals to consider whether they wish to participate in the program before the December 31, 2023 deadline. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2023–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2023–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–NYSE–2023–24 and should be submitted on or before July 17, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

James DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13498 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97764; File No. SR–CboeEDGX–2023–016]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Amend Its Fee Schedule

June 20, 2023.

On March 1, 2023, Cboe EDGX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its fee schedule. The proposed rule change was published for comment in the **Federal Register** on March 9, 2023.[3] On April 28, 2023, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 97042 (March 3, 2023), 88 FR 14657. The comment letters received on the proposed rule change are available on the Commission's website at: *https://*

Commission temporarily suspended the proposed rule change and instituted proceedings to determine whether to approve or disapprove the proposed rule change.[4] On June 14, 2023, the Exchange withdrew the proposed rule change (CboeEDGX–2023–016).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13450 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97772; File No. SR–BOX–2023–02]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 4120 (Transactions of Certain Public Customers) and BOX Rule 100 (Definitions) and Adopt IM–4120–1

June 20, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2023, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 4120 (Transactions of Certain Public Customers) and BOX Rule 100 (Definitions) and adopt IM–4120–1. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BOX Rule 4120 (Transactions of Certain Public Customers) and BOX Rule 100 (Definitions) and adopt IM–4120–1. The purpose of the proposed rule change is to amend the BOX Rule that governs interested transactions to, among other things, clarify that clearing firms are not intended to be included within the scope of BOX Rule 4120. The Exchange notes that the proposed changes are similar to the scope of activities covered by existing rules at other options exchanges.[5]

Rule 4120 and Proposed IM–4120–1

Presently, BOX Rule 4120 prohibits an OFP,[6] without prior consent, from executing any transaction in securities or carrying a position in any security in which: (1) an officer or employee of the Exchange or any national securities exchange that is a participant of the Clearing Corporation,[7] or an officer or employee of a corporation in which the Exchange, or such other exchange owns the majority of the capital stock, is directly or indirectly interested; or (2) a partner, officer, director, principal shareholder or employee of another OFP is directly or indirectly interested. In such circumstances, the OFP is required to receive written consent from the Exchange or consent of the other OFP prior to taking such action.

This Rule 4120 is intended to govern conflicts of interest and regulate interested transactions.[8] The Rule prohibits OFPs from engaging in specified interested actions without obtaining prior written consent from the Exchange or consent of the other OFP prior to taking such action. For example, under Rule 4120, an OFP may not execute a transaction in a security in which an employee of the Exchange is directly interested, without first obtaining written consent from the Exchange. The Exchange is proposing to amend BOX Rule 4120 to clarify that clearing firms are not intended to be included within the scope of BOX Rule 4120. Specifically, the Exchange is proposing to add ''open a securities or commodities account'' and remove ''in securities or carry a position in any security'' within BOX Rule 4120(a) to amend the scope of this requirement, which is in line with the scope and language of other exchanges.[9] The Exchange believes that this change removes unintended parties from the scope of the rule and thus allows for more effective supervision of interested transactions. At present, due to the broad language within Rule 4120(a) stating that no OFP shall ''carry a position in any security'' clearing firms are being captured within the scope of the Rule. The Exchange is proposing to amend Rule 4120 to remove the language relating to carrying a position in a security to clarify that clearing firms are not included in the scope of this Rule due to only carrying a position, which the Exchange believes is in line with the intent of the rule and existing practices at other exchanges.[10]

www.sec.gov/comments/sr-cboeedgx-2023-016/srcboeedgx2023016.htm.

[4] *See* Securities Exchange Act Release No. 97406, 88 FR 28641 (May 4, 2023).

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* NYSE Rule 407 *and* NYSE American Rule 407. The Exchange believes NYSE and NYSE American similarly do not include clearing firms within the scope of their rules.

[6] The terms ''Order Flow Provider'' or ''OFP'' mean those Options Participants representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading. *See* BOX Rule 100(a)(47). The term ''Customer Order'' means an agency order for the account of either a Public Customer, as defined herein, or a broker-dealer. *See* BOX Rule 100(a)(18). The term ''Market Maker'' means an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in the Rule 8000 Series. All Market Makers are designated as specialists on the Exchange for all purposes under the Exchange Act or Rules thereunder. The term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* BOX Rule 100(a)(53).

[7] The term ''Clearing Corporation'' or ''OCC'' means The Options Clearing Corporation.

[8] BOX Rule 4120 governs direct or indirect conflicts of interest involving officers or employees of the Exchange or any national securities exchange that is a participant of the OCC, an officer or employee of a corporation in which the Exchange, or such other exchange owns the majority of the capital stock, and partners, officers, directors, principal shareholders or employees of another OFP. *See* BOX Rule 4120.

[9] *See supra* note 3.

[10] *Id.*

The proposed amended language within BOX Rule 4120(a) would provide, ''No OFP shall open a securities or commodities account or execute any transaction in which: (1) an officer or employee of the Exchange or any national securities exchange that is a participant of the Clearing Corporation, or an officer or employee of a corporation in which the Exchange, or such other exchange owns the majority of the capital stock, is directly or indirectly interested, without the prior written consent of the Exchange; or (2) a partner, officer, director, principal shareholder or employee of another OFP is directly or indirectly interested, without the consent of such other OFP.'' Rule 4120 also requires that where the required consent has been granted, duplicate reports of the transaction and position shall promptly be sent to the Exchange or OFP, as the case may be. Additionally, the Exchange is proposing to adopt language to provide that the Exchange may, upon written request, and where good cause is shown, waive any requirements of Rule 4120. The Exchange notes that this proposed waiver language is identical to language found within NYSE American Rule 407 and NYSE Rule 407.[11] The Exchange believes that the adoption of this provision will provide the Exchange with greater flexibility, to allow for more effective and efficient supervision of the interested transactions that are governed by Rule 4120.

The Exchange is also proposing to adopt IM–4120–1. Proposed IM–4120–1 would provide that the term ''securities or commodities accounts'' as used in Rule 4120 shall include, but not be limited to, limited or general partnership interests in investment partnerships. As part of the proposed changes detailed above, the Exchange is adopting language within Rule 4120(a) to provide that no OFP shall ''open a securities or commodities account.'' The Exchange believes that adopting IM–4120–1, which provides that for the purposes of Rule 4120, securities or commodities accounts also include limited or general partnership interests in investment partnerships, will reduce the potential for investor confusion regarding what is included within the scope of the Rule. Additionally, proposed IM–4120–1 would require OFPs to develop and maintain written procedures for reviewing such accounts and transactions and assure that their associated persons are not improperly recommending or marketing such securities or products to others through Participants [12] or Participant organizations. At present, Rule 4120 is silent on the requirements for how an OFP must ensure compliance with this Rule. The Exchange is now proposing to adopt language codifying the requirement for OFPs to develop and maintain written procedures for reviewing these transactions and accounts. The Exchange believes that OFPs already maintain such written procedures in practice and is looking to codify the requirement for clarity. The Exchange is adopting IM–4120–1 to provide more clarity on what is covered under the term ''securities or commodities accounts,'' and the obligation for OFPs to develop related written procedures.

The Exchange believes that proposed IM–4120–1, which provides greater clarity on the requirements of Rule 4120, will allow for more effective regulatory compliance. The Exchange also notes that proposed IM–4120–1 is substantively identical to an existing rule at NYSE American and NYSE.[13]

Technical Amendments

In addition to the proposed amendments, the Exchange is proposing to amend Rule 100(a)(16) to update the cross references to the rules of the OCC within the definition of the term ''covered short position.'' The OCC has amended their Rule 610 since BOX adopted Rule 100(a)(16), so the Exchange is proposing to update the OCC cross references within BOX Rule 100(a)(16). The Exchange is proposing to update the cross reference to OCC Rule 610(f) to 610(A) and 610(B) and the cross reference to OCC Rule 610(g) to 610(C).[14] The Exchange is not proposing to make any substantive changes to Rule 100(a)(16).

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[15] in general, and Section 6(b)(5) of the Act,[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Rule 4120 and Proposed IM–4120–1

Together, the proposed amendment of Rule 4120 and the proposed adoption of IM–4120–1 are intended to amend the BOX Rule governing conflicts of interest by updating and adopting rules that regulate interested transactions.[17] Specifically, the proposed changes are intended to clarify that clearing firms are not intended to be included within the scope of BOX Rule 4120. The Exchange believes that the proposed rule change may reduce potential investor or market participant confusion over which BOX Participants are covered under scope of BOX Rule 4120. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange also believes that the proposed rule change may result in more efficient regulatory compliance, as the proposed updates are similar in relevant part to existing rules at NYSE American and NYSE.[18] As such, the Exchange believes that the proposed rule change is in the public interest and therefore, is consistent with the Act.

Technical Changes

In addition, the Exchange believes that the proposed non-substantive clarifying changes described above to update the OCC cross references within BOX Rule 100(a)(16) would add clarity to the Exchange's rules. The Exchange believes that adding such clarity would also be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity, thereby reducing potential confusion. In addition, the Exchange believes that amending the OCC cross references to accurately reflect the updated section numbers within the OCC Rulebook would promote fairness and consistency in the marketplace by providing investors with access to the appropriate citations as detailed within the Rules of the OCC. The proposed

[11] *Id.*

[12] The term ''Participant'' means a firm, or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in trading on a facility of the Exchange and includes an ''Options Participant'' and ''BSTX Participant.''

[13] *See* NYSE American Rule 407, Supplementary Material .11 *and* NYSE Rule 407, Supplementary Material .11.

[14] *See* OCC Rules 610A (Member Specific Deposits), 610B (Third-Party Specific Deposits), and 610C (Escrow Deposits).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See supra* notes 3 and 11.

[18] *Id.*

change is not intended to make any substantive change to the definition of ''covered short position'' within the BOX Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed to clarify that clearing firms are not intended to be included within the scope of BOX Rule 4120. The Exchange notes that, the proposed updates are similar in relevant part to existing rules at NYSE American and NYSE.[19] The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule change is not designed to address any competitive issues but rather to clarify that clearing firms are not intended to be included within the scope of BOX Rule 4120. The Exchange's proposal to amend BOX Rule 4120 does not impose an undue burden on competition as all Participants that conduct business with the public would be subject to the proposed rules.

The proposed rule change is not designed to address any competitive issues but rather seeks to clarify that clearing firms are not intended to be included within the scope of BOX Rule 4120. The Exchange's proposal to adopt proposed IM–4120–1 does not impose an undue burden on competition as all Participants that conduct business with the public would be subject to the proposed rules.

Technical Amendments

The Exchange's proposal to amend BOX Rule 100(a)(16) to update the cross references to the rules of the OCC within the definition of the term ''covered short position'' is a non-substantive amendment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[19] *See supra* notes 3 and 11.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

(a) This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act [20] and Rule 19b–4(f)(6) thereunder.[21]

(b) This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2023–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2023–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BOX–2023–02 and should be submitted on or before July 17, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13458 Filed 6–23–23; 8:45 am]

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[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97766; File No. SR–ICEEU–2023–013]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments the Collateral and Haircut Procedures

June 20, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2023, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes to modify its Collateral and Haircut Procedures (the ''Collateral and Haircut Procedures'' or ''Procedures'') [3] to modify the type of gold that may be accepted as collateral.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose*

ICE Clear Europe is proposing to revise Appendix A to the Collateral and Haircut Procedures to modify the eligibility criteria for accepting gold as collateral. As revised, to be eligible, gold would have to be held on an ''allocated'' basis [4] by the relevant custodian in the name of the Clearing House. Specifically, the change would provide that for the purposes of margin, gold transferred by a Clearing Member would first be held in an unallocated account and in the name of the Clearing House. Such gold would only be recognized as Permitted Cover or eligible collateral when it is transferred from the unallocated accounts to an allocated account of the custodian held in the name of the Clearing House and thereupon deemed allocated pure gold bullion of recognized good delivery.

The amendments would remove existing provisions that would permit unallocated gold to serve as Permitted Cover or eligible collateral. The amendment is intended to clarify that only allocated (as opposed to unallocated) pure gold bullion is capable of being accepted as Permitted Cover or eligible collateral, and thereby better align ICE Clear Europe's rules with applicable requirements under the European Market Infrastructure Regulation (EMIR) which stipulate that gold as collateral must be held in allocated form (only).[5] While ICE Clear Europe's current rules technically permit the acceptance of gold as collateral, ICE Clear Europe has not in practice accepted gold as collateral, as the level of potential interest on the part of Clearing Members has to date been insufficient to justify the completion on ICE Clear Europe's part of certain operational testing processes that would be required to support the full implementation of the process for accepting gold as Permitted Cover or eligible collateral. As a result, ICE Clear Europe does not believe the amendment would require any Clearing Members to change their current margin postings.

(b) *Statutory Basis*

ICE Clear Europe believes that the proposed amendments to the Collateral and Haircut Procedures are consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 (the ''Act'') [6] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [7] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest.

The proposed changes to the Procedures are designed to limit gold that may be accepted as margin to allocated gold, rather than permitting unallocated gold. As noted above, the level of potential interest on the part of Clearing Members in being able to post gold (whether in allocated or unallocated form) as margin has to date been insufficient to justify the completion on ICE Clear Europe's part of certain operational testing processes that would be required to support the full implementation of the process for accepting gold as Permitted Cover or eligible collateral, and ICE Clear Europe therefore does not believe the amendment will result in a change in current activity of Clearing Members. The amendment is intended to ensure that the Collateral and Haircut Procedures are better aligned with the applicable requirements under the EMIR RTS that gold accepted as margin be in allocated rather than unallocated form. As such, the amendments would clarify the operation of the Clearing House's margin framework in accordance with applicable law, and thereby promote the stability of the Clearing House and the prompt and accurate clearance and settlement of cleared contracts. Removing the option of unallocated gold will also not adversely affect the safeguarding of property in the custody or control of the Clearing House or for which it is responsible. The amendments are for these reasons also generally consistent with the protection of investors and the public interest in the safe operation of the Clearing House. Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).[8]

The amendments to the Collateral and Haircut Procedures are also consistent with relevant provisions of Rule 17Ad–22. Rule 17Ad–22(e)(5) requires the clearing agency to ''establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . [l]imit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if [it] requires collateral to manage its or its participants' credit exposure. . . .'' [9] The amendments would require that any gold posted as margin be in allocated form, rather than unallocated form. Limiting margin to allocated gold (which is generally viewed as being subject to reduced risks from custodian failure) is consistent with the requirement to limit collateral to that with low credit, liquidity, and market risks, and accordingly the amendments would not increase the risk of the Clearing House from such collateral. The amendments would not otherwise change the Clearing House's current application of haircuts or concentration limits for Permitted Cover. As such, the amendments are consistent with the requirements of Rule 17Ad–22(e)(5).[10]

Rule 17Ad–22(e)(1) requires the clearing agency to ''establish, implement, maintain and enforce written policies and procedures

[3] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules and the Collateral and Haircut Procedures.

[4] Allocated gold held by a custodian is specifically identified for a particular owner. Unallocated gold represents a claim against the relevant custodian for an amount of metal held in bulk.

[5] Commission Delegated Regulation (EU) No. 153/2013 of 19 December 2012 supplementing Regulation (EU) No. 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties, Annex I, Section 3 (the ''EMIR RTS'').

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(5).

[10] 17 CFR 240.17Ad–22(e)(5).

reasonably designed to, as applicable . . . provide for a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.'' [11] As noted above, the amendments are intended to better align the Collateral and Haircut Procedures with the requirements of the EMIR RTS, which limits gold accepted as margin to gold held in allocated form. As such, the amendments will support the Clearing House's compliance with applicable law in all relevant jurisdictions, and therefore are consistent with the requirements of Rule 17Ad–22(e)(1).[12]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to require that any gold posted as margin be held in allocated form, consistent with applicable law. As noted above, the level of potential interest on the part of Clearing Members in being able to post gold (whether in allocated or unallocated form) as margin has to date been insufficient to justify the completion of ICE Clear Europe's part of certain operational testing processes that would be required to support the full implementation of the process for accepting gold as Permitted Cover or eligible collateral. As a result, ICE Clear Europe does not believe the amendments will affect current margin practices or affect the current costs of posting margin for Clearing Members. To the extent that Clearing Members in the future may seek to post gold as margin, and to incur additional costs to do so from the requirement that such margin be in allocated form, ICE Clear Europe believes that such costs would be appropriate in light of the requirements of the EMIR RTS. ICE Clear Europe does not believe the amendments would otherwise affect the ability to market participants to access clearing, or the market for clearing services generally. Therefore, ICE Clear Europe does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendment have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–ICEEU–2023–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–ICEEU–2023–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–ICEEU–2023–013 and should be submitted on or before July 17, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13452 Filed 6–23–23; 8:45 am]

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[11] 17 CFR 240.17Ad–22(e)(1).

[12] 17 CFR 240.17Ad–22(e)(1).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97765; File No. SR–OCC–2022–012]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Concerning the Options Clearing Corporation's Collateral Haircuts and Standards for Clearing Banks and Letters of Credit

June 20, 2023.

On December 5, 2022, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2022–012 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder [2] to change rules, policies, and procedures regarding collateral haircuts, minimum standards for clearing banks and letter-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of-credit issuers, and concentration limits for letters of credit.[3] The Proposed Rule Change was published for public comment in the **Federal Register** on December 23, 2022.[4] The Commission has received comments regarding the Proposed Rule Change.[5]

On February 3, 2023, pursuant to Section 19(b)(2) of the Exchange Act,[6] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[7] On March 21, 2023, the Commission instituted proceedings, pursuant to Section 19(b)(2)(B) of the Act,[8] to determine whether to approve or disapprove the Proposed Rule Change.[9]

Section 19(b)(2)(B)(ii) of the Act provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change.[10] The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[11]

The 180th day after publication of the Notice in the **Federal Register** is June 21, 2023. The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the Proposed Rule Change so that it has sufficient time to consider the Proposed Rule Change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2)(B)(ii) of the Act,[12] designates August 20, 2023 as the date by which the Commission shall either approve or disapprove the Proposed Rule Change SR–OCC–2022–012.

[3] *See* Notice of Filing *infra* note 4, at 87 FR at 79015.

[4] Securities Exchange Act Release No. 96533 (Dec. 19, 2022), 87 FR 79015 (Dec. 23, 2022) (File No. SR–OCC–2022–012) (''Notice of Filing'').

[5] Comments are available at *https://www.sec.gov/comments/sr-occ-2022-012/srocc2022012.htm*.

[6] 15 U.S.C. 78s(b)(2).

[7] Securities Exchange Act Release No. 96797 (Feb. 3, 2023), 88 FR 8505 (Feb. 9, 2023) (SR–OCC–2022–012).

[8] 15 U.S.C. 78s(b)(2)(B).

[9] Securities Exchange Act Release No. 97178 (Mar. 21, 2023), 88 FR 18205 (Mar. 27, 2023) (File No. SR–OCC–2022–012).

[10] 15 U.S.C. 78s(b)(2)(B)(ii).

[11] *Id.*

[12] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13451 Filed 6–23–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97767; File No. SR–EMERALD–2023–13]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Increase Fees for the ToM Market Data Product and Establish Fees for the cToM Market Data Product

June 20, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 7, 2023, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the ''Fee Schedule'') to amend the fees for two market data products by (i) amending the fees for MIAX Emerald Top of Market (''ToM''); and (ii) establishing fees for MIAX Emerald Complex Top of Market (''cToM'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fees for two market data products by (i) amending the fees for ToM; and (ii) establishing fees for cToM. The proposed fees will be immediately effective. The Exchange initially filed the proposal on December 28, 2022 (SR–EMERALD–2022–37) (the ''Initial Proposal'').[3] On February 23, 2023, the Exchange withdrew the Initial Proposal and replaced it with a revised proposal (SR–EMERALD–2023–04) (the ''Second Proposal'').[4] On April 11, 2023, the Exchange withdrew the Second Proposal and replaced it with further revised proposal (SR–EMERALD–2023–10) (the ''Third Proposal'').[5] The Exchange recently withdrew the Third Proposal and replaced it with this current proposal (SR–EMERALD–2023–13).[6]

The Exchange previously filed several proposals to adopt fees for cToM.[7] The

[13] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 96625 (January 10, 2023), 88 FR 2688 (January 17, 2023) (SR–EMERALD–2022–37).

[4] *See* Securities Exchange Act Release No. 97078 (March 8, 2023), 88 FR 15813 (March 14, 2023) (SR–EMERALD–2023–04).

[5] *See* Securities Exchange Act Release No. 97326 (April 19, 2023), 88 FR 25043 (April 25, 2023) (SR–EMERALD–2023–10).

[6] The Exchange met with Commission Staff to discuss the Third Proposal during which the Commission Staff provided feedback and requested additional information, including, most recently, information about total costs related to certain third party vendors. Such vendor cost information is subject to confidentiality restrictions. The Exchange has provided this information to Commission Staff under separate cover with a request for confidentiality. While the Exchange will continue to be responsive to Commission Staff's information requests, the Exchange believes that the Commission should, at this point, issue substantially more detailed guidance for exchanges to follow in the process of pursuing a cost-based approach to fee filings, and that, for the purposes of fair competition, detailed disclosures by exchanges, such as those that the Exchange is providing now, should be consistent across all exchanges, including for those that have resisted a cost-based approach to fee filings, in the interests of fair and even disclosure and fair competition.

[7] *See* Securities Exchange Act Release Nos. 92358 (July 9, 2021), 86 FR 37361 (July 15, 2021) (SR–EMERALD–2021–21); SR–EMERALD–2021–32 (withdrawn without being noticed by the Commission); 93427 (October 26, 2021), 86 FR 60310 (November 1, 2021) (SR–EMERALD–2021–34); 93811 (December 17, 2021), 86 FR 73051

Exchange notes that these prior proposals included an analysis of the costs underlying the compilation and dissemination of the proposed cToM fees. The Exchange previously included a cost analysis in the Initial, Second and Third Proposals. As described more fully below, the Exchange provides an updated cost analysis that includes, among other things, additional descriptions of how the Exchange allocated costs among it and its affiliated exchanges (MIAX PEARL, LLC (''MIAX Pearl''), separately among MIAX Pearl Options and MIAX Pearl Equities, and Miami International Securities Exchange, LLC (''MIAX,'' together with MIAX Pearl, the ''affiliated markets'')) to ensure no cost was allocated more than once, as well as additional detail supporting its cost allocation processes and explanations as to why a cost allocation in this proposal may differ from the same cost allocation in a similar proposal submitted by one of its affiliated markets. Although the baseline cost analysis used to justify the proposed fees was made in the Initial, Second and Third Proposals, the fees themselves have not changed since the Initial Proposal and the Exchange still proposes fees that are intended to cover the Exchange's cost of providing ToM and cToM, with a reasonable mark-up over those costs. The proposed fees are intended to cover the Exchange's cost of compiling and disseminating ToM and cToM with a reasonable mark-up over those costs, accounting for ongoing increases in expenses.[8] Before setting forth the additional details regarding the proposal as well as the updated Cost Analysis conducted by the Exchange, immediately below is a description of the proposed fees.

Proposed Market Data Pricing

The Exchange offers ToM and cToM to subscribers. The Exchange notes that there is no requirement that any Member[9] or market participant subscribe to ToM or cToM or any other data feed offered by the Exchange. Instead, a Member may choose to maintain subscriptions to ToM or cToM based on their business model. The proposed fees will not apply differently based upon the size or type of firm, but rather based upon the subscriptions a firm has to ToM or cToM and their use thereof, which are based upon factors deemed relevant by each firm. The proposed pricing for ToM and cToM is set forth below.

ToM

ToM is an Exchange-only market data feed that contains top of book quotations based on options orders[10] and quotes[11] entered into the System[12] and resting on the Exchange's Simple Order Book[13] as well as administrative messages.[14] The Exchange currently charges Internal Distributors[15] $1,250 per month and External Distributors $1,750 per month for ToM. The Exchange does not currently charge, nor does it now propose to charge any additional fees based on a subscriber's use of the ToM and cToM data feeds, *e.g.,* displayed versus non-displayed use, redistribution fees, or any individual per user fees. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for producing ToM to subscribers to be $317,753, or $26,479 per month (rounded to the nearest dollar when dividing the annual cost by 12 months). The Exchange proposes to amend Section 6)a) of the Fee Schedule to now charge Internal Distributors $2,000 per month and External Distributors $3,000 per month for ToM in an effort to cover the Exchange's increasing costs with compiling and producing ToM to market participants as evidenced by the Exchange's Cost Analysis detailed below.

cToM

The Exchange previously adopted rules governing the trading of Complex Orders[16] on the MIAX Emerald System in 2018,[17] ahead of the Exchange's planned launch, which took place on March 1, 2019. Shortly thereafter, the Exchange adopted the market data product, cToM, and expressly waived fees for cToM to incentivize market participants to subscribe.[18] cToM was provided free of charge for four years and the Exchange absorbed all costs associated with compiling and disseminating cToM during that entire time. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for producing cToM to subscribers to be $347,543, or $28,962 per month (rounded to the nearest dollar when dividing the annual cost by 12 months). The Exchange now proposes to amend Section 6)a) of the Fee Schedule to establish fees for cToM in order to recoup its ongoing costs going forward.

In summary, cToM provides subscribers with the same information as ToM as it relates to the Strategy Book,[19] *i.e.,* the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable orders in the complex strategy on the Exchange. However, cToM provides subscribers with the following additional information that is not included in ToM: (i) the identification of the complex strategies currently trading on the Exchange; (ii) complex strategy last sale information; and (iii) the status of securities underlying the complex strategy (*e.g.,* halted, open, or resumed). cToM is therefore a distinct market data product from ToM in that it includes additional information that is not available to subscribers that receive only ToM. ToM subscribers are not required to subscribe to cToM, and

(December 23, 2021) (SR–EMERALD–2021–44); 94263 (February 15, 2022), 87 FR 9766 (February 22, 2022) (SR–EMERALD–2022–06); 94715 (April 14, 2022), 87 FR 23674 (April 20, 2022) (SR–EMERALD–2022–14); 94892 (May 11, 2022), 87 FR 29963 (May 17, 2022) (SR–EMERALD–2022–18).

[8] For example, the New York Stock Exchange, Inc.'s (''NYSE'') Secure Financial Transaction Infrastructure (''SFTI'') network, which contributes to the Exchange's connectivity cost, increased its fees by approximately 9% since 2021. Similarly, since 2021, the Exchange, and its affiliates, experienced an increase in data center costs of approximately 17% and an increase in hardware and software costs of approximately 19%. These percentages are based on the Exchange's actual 2021 and proposed 2023 budgets.

[9] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[10] The term ''order'' means a firm commitment to buy or sell option contracts. *See* Exchange Rule 100.

[11] The term ''quote'' or ''quotation'' means a bid or offer entered by a Market Maker that is firm and may update the Market Maker's previous quote, if any. The Rules of the Exchange provide for the use of different types of quotes, including Standard quotes and eQuotes, as more fully described in Rule 517. A Market Maker may, at times, choose to have multiple types of quotes active in an individual option. *See* Exchange Rule 100.

[12] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[13] The term ''Simple Order Book'' means ''the Exchange's regular electronic book of orders and quotes.'' *See* Exchange Rule 518(a)(15).

[14] *See* Fee Schedule, Section 6)a).

[15] A ''Distributor'' of MIAX data is any entity that receives a feed or file of data either directly from MIAX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All Distributors are required to execute a MIAX Distributor Agreement. *See* Fee Schedule, Section 6)a).

[16] *See* Exchange Rule 518(a)(5) for the definition of Complex Orders.

[17] *See* Securities Exchange Act Release Nos. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (In the Matter of the Application of MIAX EMERALD, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission); *and* 85345 (March 18, 2019), 84 FR 10848 (March 22, 2019) (SR–EMERALD–2019–13) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 518, Complex Orders).

[18] *See* Securities Exchange Act Release No. 85207 (February 27, 2019), 84 FR 7963 (March 5, 2019) (SR–EMERALD–2019–09) (providing a complete description of the cToM data feed).

[19] The ''Strategy Book'' is the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17).

cToM subscribers are not required to subscribe to ToM.

cToM Proposed Fees

The Exchange proposes to amend Section 6)a) of the Fee Schedule to charge Internal Distributors $2,000 per month and External Distributors $3,000 per month for the cToM data feed. The proposed fees are identical to the fees that the Exchange proposes to charge for ToM. The Exchange does not propose to adopt redistribution fees for the cToM data feed. However, the recipient of cToM data would be required to become a data subscriber and would be subject to the applicable data subscriber fees. The Exchange also does not propose to charge any additional fees based on a subscriber's use of the cToM data feed, *e.g.,* displayed versus non-displayed use, and does not propose to impose any individual per user fees.

As it does today for ToM, the Exchange proposes to assess cToM fees to Internal and External Distributors in each month the Distributor is credentialed to use cToM in the production environment. Also, as the Exchange does today for ToM, market data fees for cToM will be reduced for new Distributors for the first month during which they subscribe to cToM, based on the number of trading days that have been held during the month prior to the date on which that subscriber has been credentialed to use cToM in the production environment. New cToM Distributors will be assessed a pro-rata percentage of the fees listed in the table in Section 6)a) of the Fee Schedule, which is the percentage of the number of trading days remaining in the affected calendar month as of the date on which they have been credentialed to use cToM in the production environment, divided by the total number of trading days in the affected calendar month.

The Exchange also proposes to amend the paragraph below the table of fees for ToM and cToM in Section 6)a) of the Fee Schedule to make a minor, non-substantive correction by deleting the phrase ''(as applicable)'' in the first sentence following the table of fees for ToM and cToM. The purpose of this proposed change is to remove unnecessary text from the Fee Schedule.

cToM Content Is Available From Alternative Sources

cToM is not the exclusive source for Complex Order information from the Exchange. It is a business decision of market participants whether to subscribe to cToM or not. Market participants that choose not to subscribe to cToM can derive much, if not all, of the same information from other Exchange sources, including, for example, the MIAX Emerald Order Feed (''MOR'').[20] The following cToM information is included in MOR: the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable orders in the complex strategy on the Exchange; the identification of the complex strategies currently trading on the Exchange; and the status of securities underlying the complex strategy (*e.g.,* halted, open, or resumed). In addition to MOR, complex strategy last sale information can be derived from ToM. Specifically, market participants may deduce that last sale information for multiple trades in related options series with the same timestamps disseminated via ToM are likely part of a Complex Order transaction and last sale.

Additional Discussion—cToM Background

In the six years since the Exchange adopted Complex Order functionality, the Exchange has grown its monthly complex market share from 0% to 3.21% of the total electronic complex non-index volume executed on exchanges offering electronic complex functionality for the month of April 2023.[21] During that same period, the Exchange has had a steady increase in the number of cToM subscribers. Until the Exchange initially filed to adopt cToM fees in July of 2021, the Exchange did not charge fees for cToM data provided by the Exchange.

The objective of this approach was to eliminate any fee-based barriers for Members when the Exchange launched with Complex Order functionality in 2019, which the Exchange believes has been helpful in its ability to attract order flow as a new exchange. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for providing cToM at approximately $347,543. In order to establish fees that are designed to recover the aggregate costs of providing cToM plus a reasonable mark-up, the Exchange is proposing to modify its Fee Schedule, as described above. In addition to the Cost Analysis, described below, the Exchange believes that its proposed approach to market data fees is reasonable based on a comparison to competitors.

Additional Discussion—Comparison With Other Exchanges

ToM

The proposed fees for ToM are comparable to the fees currently in place for the options exchanges, particularly Nasdaq ISE, LLC (''ISE'').[22] In April 2023, the Exchange had 3.24% market share of equity options volume; for that same month, ISE had 5.41% market share of equity options volume.[23] The Exchange's proposed fees for ToM are equal to, and for Internal Distributors, lower than, the rates data recipients pay for comparable data feeds from ISE. The Exchange notes that other competitors maintain fees applicable to market data that are considerably higher than those proposed by the Exchange, including NYSE Arca, Inc. (''NYSE Arca'').[24] However, the Exchange has focused its comparison on ISE because it is the closest market in terms of market share and offers market data at prices lower than several other incumbent exchanges. The fees for the Nasdaq ISE Top Quote Feed, which like ToM, includes top of book, trades, and security status messages, consists of an internal distributor access fee of $3,000 per month (50% higher than the Exchange's proposed rate), and an external distributor access fee of $3,000 per month (equal to the Exchange's proposed rate).[25] ISE's overall charge to receive the Nasdaq ISE Top Quote Feed

[20] *See* MIAX website, Market Data & Offerings, *available at https://www.miaxglobal.com/company/data/data-products-services/market-data* (last visited June 7, 2023). In general, MOR provides real-time ultra-low latency updates on the following information: new Simple Orders added to the MIAX Emerald Order Book; updates to Simple Orders resting on the MIAX Emerald Order Book; new Complex Orders added to the Strategy Book (*i.e.,* the book of Complex Orders); updates to Complex Orders resting on the Strategy Book; MIAX Emerald listed series updates; MIAX Emerald Complex Strategy definitions; the state of the MIAX Emerald System; and MIAX Emerald's underlying trading state.

[21] The Exchange notes that it receives complex market data for all U.S. options exchanges that offer complex functionality from direct feeds from The Options Price Reporting Authority (''OPRA'').

[22] *See* ISE Options 7 Pricing Schedule, Section 10, H., *available at https://listingcenter.nasdaq.com/rulebook/ise/rules/ISE%20Options%207* (assessing Professional internal and external distributors $3,000 per month, plus $20 per month per controlled device for ISE's Top Quote Feed).

[23] *See* the ''Market Share'' section of the Exchange's website, *available at https://www.miaxglobal.com/* (last visited June 7, 2023).

[24] Fees for the NYSE Arca Options Top Feed, which is the comparable product to ToM, are $3,000 per month for access (internal use) and an additional $2,000 per month for redistribution (external distribution), compared to the Exchange's proposed fees of $2,000 and $3,000 for Internal and External Distributors, respectively. In addition, for its NYSE Arca Options Top Feed, NYSE Arca charges for three different categories of non-display usage, and user fees, both of which the Exchange does not propose to charge, causing the overall cost of NYSE Arca Options Top Feed to far exceed the Exchange's proposed rates. *See* NYSE Acra Options Proprietary Market Data Fees, *available at: https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Options_Proprietary_Data_Fee_Schedule.pdf.*

[25] *See supra* note 22.

may be even higher than the Exchange's proposed rates because ISE charges additional per controlled device fees that can cause the distribution fee to reach up to $5,000 per month.[26] The Exchange's proposed rates do not include additional fees.

cToM

The proposed fees for cToM are comparable to the fees currently in place for competing options exchanges, particularly NYSE American, LLC (''NYSE American'').[27] As noted above, for the month of April 2023, the Exchange had 3.24% of the total equity options market share and 3.21% of the total electronic complex non-index volume executed on exchanges offering electronic complex functionality. For that same month, NYSE American had 7.08% of the total equity options market share and 6.92% of the total electronic complex non-index volume.[28] The Exchange proposes fees for cToM that are comparable to the rates data recipients pay for comparable data feeds from NYSE American. The Exchange has focused its comparison on NYSE American because it is the closest market in terms of market share. The fees for the NYSE American Options Complex, which, like cToM, includes top of book, trades, and security status messages for complex orders, consists of an internal distributor access fee of $1,500 per month (slightly lower than the Exchange's proposed rate), and an external distributor access fee of $1,000 per month (resulting in a total external distribution fee of $2,500 per month).[29] However, NYSE American's overall charge to receive NYSE American Options Complex data may be even higher than the Exchange's proposed rates because NYSE American charges additional non-displayed usage fees (each are $1,000 per month and a subscriber may pay multiple non-displayed usage fees), per user fees ($20 per month for professional users and $1.00 per month for non-professional users), and multiple data feed fees ($200 per month), all of which the Exchange does not propose to charge. These additional charges by NYSE American can cause the total cost to receive NYSE American Complex data to far exceed the rates that the Exchange proposes to charge.

Additional Discussion—Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs.

Accordingly, in proposing to charge fees for market data, the Exchange is especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and in carefully and transparently assessing the impact on Members—both generally and in relation to other Members—to ensure the fees will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange does not believe it needs to otherwise address questions about market competition in the context of this filing because the proposed fees are so clearly consistent with the Act based on its Cost Analysis. The Exchange also believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[30] and Rule 19b–4 thereunder,[31] with respect to the types of information self-regulatory organizations (''SROs'') should provide when filing fee changes, and Section 6(b) of the Act,[32] which requires, among other things, that exchange fees be reasonable and equitably allocated,[33] not designed to permit unfair discrimination,[34] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[35] This rule change proposal addresses those requirements, and the analysis and data in this section are designed to clearly and comprehensively show how they are met.[36]

As noted above, the Exchange has conducted and recently updated a study of its aggregate costs to produce the ToM and cToM data feeds—the Cost Analysis.[37] The Cost Analysis required a detailed analysis of the Exchange's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transactions, market data, membership services, physical connectivity, and ports (which provide order entry, cancellation and modification functionality, risk functionality, ability to receive drop copies, and other functionality). The Exchange separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (collectively, ''cost drivers'').

As an initial step, the Exchange determined the total cost for the Exchange and the affiliated markets for each cost driver as part of its 2023 budget review process. The 2023 budget review is a company-wide process that occurs over the course of many months, includes meetings among senior management, department heads, and the Finance Team. Each department head is required to send a ''bottoms up'' budget to the Finance Team allocating costs at the profit and loss account and vendor levels for each Exchange and its affiliated markets based on a number of factors, including server counts, additional hardware and software utilization, current or anticipated functional or non-functional development projects, capacity needs, end-of-life or end-of-service intervals, number of members, market model (*e.g.,* price time or pro-rata, simple only or simplex and complex markets, auction functionality, etc.), which may impact message traffic, individual system architectures that impact platform

[26] *Id.*

[27] *See* NYSE American Options Proprietary Market Data Fees, *available at https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Options_Market_Data_Fee_Schedule.pdf.*

[28] *See* supra note 23.

[29] *Id.*

[30] 15 U.S.C. 78s(b)(1).

[31] 17 CFR 240.19b–4.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(4).

[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78f(b)(8).

[36] In 2019, Commission staff published guidance suggesting the types of information that SROs may use to demonstrate that their fee filings comply with the standards of the Exchange Act (''Fee Guidance''). While the Exchange understands that the Fee Guidance does not create new legal obligations on SROs, the Fee Guidance is consistent with the Exchange's view about the type and level of transparency that exchanges should meet to demonstrate compliance with their existing obligations when they seek to charge new fees. *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) *available at https://www.sec.gov/tm/staff-guidancesro-rule-filings-fees.*

[37] The Exchange notes that its Cost Analysis is based on that conducted by MEMX, LLC (''MEMX''). *See* Securities Exchange Act Release Nos. 95936 (September 27, 2022), 87 FR 59845 (October 3, 2022) (SR–MEMX–2022–26); *and* 96430 (December 1, 2022), 87 FR 75083 (December 7, 2022) (SR–MEMX–2022–32). The Exchange notes that the percentage allocations and cost levels are based on the Exchange's 2023 estimated budget and may differ from those provided by MEMX for a number of reasons, including the Exchange's ability to allocate costs among multiple exchanges while MEMX allocates cost to a single exchange.

size,[38] storage needs, dedicated infrastructure versus shared infrastructure allocated per platform based on the resources required to support each platform, number of available connections, and employees allocated time. All these factors result in different allocation percentages among the Exchange and its affiliated markets, *i.e.,* the different percentages of the overall cost driver allocated to the Exchange and its affiliated markets will cause the dollar amount of the overall cost allocated among the Exchange and its affiliated markets to also differ. Because the Exchange's parent company currently owns and operates four separate and distinct marketplaces, the Exchange must determine the actual costs associated with its actual market—as opposed to the Exchange's parent company simply summarily concluding that all costs drivers are the same at each individual marketplace, and merely dividing total costs by four (evenly for each marketplace). Rather, the Exchange's parent company determines actual cost for each marketplace, which results in different allocations and amounts across exchanges for the same cost drivers, due to the unique factors of each marketplace as described above. This allocation methodology ensures that no portion of any cost would be allocated twice or double-counted between the Exchange and its affiliated markets. The Finance Team then consolidates the budget and sends it to senior management, including the Chief Financial Officer and Chief Executive Officer, for review and approval. Next, the budget is presented to the Board of Directors and the Finance and Audit Committees for each exchange for approval. The above steps encompass the first step of the cost allocation process.

The next step involves determining what portion of the cost allocated to the Exchange pursuant to the above methodology is to be allocated to each core service, *e.g.,* connectivity and ports, market data, and transaction services. The Exchange and its affiliated markets adopted an allocation methodology with thoughtful and consistently applied principles to guide how much of a particular cost amount allocated to the Exchange pursuant to the above methodology should be allocated within the Exchange to each core service. This is the final step in the cost allocation process and is applied to each of the cost drivers set forth below. For instance, fixed costs that are not driven by client activity (*e.g.,* message rates), such as data center costs, were allocated more heavily to the provision of physical connectivity (61.9% of total expense amount allocated to 10Gb connectivity), with smaller allocations to additional Limited Service MEI Ports (4.6%), and the remainder to the provision of membership services, transaction execution and market data services (33.5%)). This next level of the allocation methodology at the individual exchange level also took into account a number of factors similar to those set forth under the first step of the allocation methodology process described above, to determine the appropriate allocation to connectivity or market data versus what is to be allocated to providing other services. The allocation methodology was developed through an assessment of costs with senior management intimately familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an estimated allocation of each cost driver to each core service, resulting in the cost allocations described below. Each of the below cost allocations is unique to the Exchange and represents a percentage of overall cost that was allocated to the Exchange pursuant to the initial allocation described above.

By allocating segmented costs to each core service, the Exchange was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has five primary sources of revenue that it can potentially use to fund its operations: transaction, access, membership, regulatory, and market data fees. Accordingly, the Exchange generally must cover its expenses from these five primary sources of revenue. The Exchange also notes that as a general matter each of these sources of revenue is based on services that are interdependent. For instance, the Exchange's system for executing transactions is dependent on physical hardware and connectivity; only Members and parties that they sponsor to participate directly on the Exchange may submit orders to the Exchange; many Members (but not all) consume market data from the Exchange in order to trade on the Exchange; and, the Exchange consumes market data from external sources in order to comply with regulatory obligations. Accordingly, given this interdependence, the allocation of costs to each service or revenue source required judgment of the Exchange and was weighted based on estimates of the Exchange that the Exchange believes are reasonable, as set forth below. While there is no standardized and generally accepted methodology for the allocation of an exchange's costs, the Exchange's methodology is the result of an extensive review and analysis and will be consistently applied going forward for any other potential fee proposals. In the absence of the Commission attempting to specify a methodology for the allocation of exchanges' interdependent costs, the Exchange will continue to be left with its best efforts to attempt to conduct such an allocation in a thoughtful and reasonable manner.

Through the Exchange's extensive Cost Analysis, which was again recently updated, the Exchange analyzed nearly every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of ToM and cToM data feeds, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of ToM and cToM data feeds, and thus bears a relationship that is, ''in nature and closeness,'' directly related to ToM and cToM data feeds. Based on its analysis, the Exchange calculated its aggregate annual costs for providing the ToM and cToM data feeds to be $665,296. This results in a monthly cost for providing ToM and cToM data feeds of $55,441 (rounded to the nearest dollar when dividing the aggregate annual cost by 12 months). In order to cover operating costs and earn a reasonable profit on its market data, the Exchange has determined it necessary to charge fees for its proprietary data products, and, as such, the Exchange is proposing to modify its Fee Schedule, as set forth above. With the proposed fee changes, the Exchange anticipates annual revenue for ToM and cToM to be $804,000 (or $67,000 per month combined).

Costs Related To Offering ToM and cToM Data Feeds

The following chart details the individual line-item (annual) costs considered by the Exchange to be related to offering the ToM and cToM data feeds to its Members and other customers, as well as the percentage of the Exchange's overall costs that such costs represent for such area (*e.g.,* as set forth below, the Exchange allocated approximately 2.8% of its overall

[38] For example, the Exchange maintains 12 matching engines, MIAX Pearl Options maintains 12 matching engines, MIAX Pearl Equities maintains 24 matching engines, and MIAX maintains 24 matching engines.

Human Resources cost to offering ToM and cToM data feeds).

Cost drivers	Allocated costs	% of total cost
Human Resources	$354,553	2.8
Network Infrastructure (fiber connectivity)	9,428	1.7
Data Center	20,630	1.7
Hardware and Software Maintenance & Licenses	22,202	1.7
Depreciation	21,167	0.7
Allocated Shared Expenses	237,316	3.0
Total	665,296	2.5

Human Resources

For personnel costs (Human Resources), the Exchange calculated an allocation of employee time for employees whose functions include directly providing services necessary to offer the ToM and cToM data feeds, including performance thereof, as well as personnel with ancillary functions related to establishing and providing such services (such as information security and finance personnel). The Exchange notes that it and its affiliated markets have approximately 184 employees (excluding employees at non-options exchange subsidiaries of Miami International Holdings, Inc. (''MIH''), the holding company of the Exchange and its affiliates, MIAX Pearl and MIAX), and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. Specifically, twice a year and as needed with additional new hires and new project initiatives, in consultation with employees as needed, managers and department heads assign a percentage of time to every employee and then allocate that time amongst the Exchange and its affiliated markets to determine that market's individual Human Resources expense. Then, again managers and department heads assign a percentage of each employee's time allocated to the Exchange into buckets including network connectivity, ports, market data, and other exchange services. This process ensures that every employee is 100% allocated, ensuring there is no double counting between the Exchange and its affiliated markets.

The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing the ToM and cToM data feeds, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of their time such employees devote to tasks related to providing the ToM and cToM data feeds. The Exchange notes that senior level executives were allocated Human Resources costs to the extent the Exchange believed they are involved in overseeing tasks related to providing the ToM and cToM data feeds. The Exchange's cost allocation for employees who perform work in support of generating and disseminating the ToM and cToM data feeds on behalf of the Exchange's options trading platform arrived at a full time equivalent (''FTE'') of 1.2 FTEs.[39] This includes personnel from the following Exchange departments that are predominately involved in producing Exchange market data: Business Systems Development, Trading Systems Development, Systems Operations and Network Monitoring, Network and Data Center Operations, Listings, Trading Operations, and Project Management. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Network Infrastructure

The Network Infrastructure cost includes cabling and switches required to generate and disseminate the ToM and cToM data feeds. The Network Infrastructure cost was narrowly estimated by focusing on the servers used at the Exchange's primary and back-up data centers specifically for the ToM and cToM data feeds. Further, as certain servers are only partially utilized to generate and disseminate the ToM and cToM data feeds, only the percentage of such servers devoted to generating and disseminating the ToM and cToM data feeds was included (*i.e.,* the capacity of such servers allocated to the ToM and cToM data feeds).[40]

The Exchange notes that while the percentage it and its affiliate, MIAX, allocated to network infrastructure are nearly identical, the Exchange's dollar amount is higher than MIAX by approximately $8,000 (a relatively small amount). It is important to note that, while both exchanges operate on state-of-the-art technology, the Exchange and MIAX do not have an identical network architecture and, as a result, do not have identical needs (and costs) for all other components, including, cabling and switches. In 2020, MIAX Emerald made significant enhancements to its network environment to ensure a best-in-class, transparent and highly deterministic trading system while maintaining industry leading latency and throughput capabilities. This highly deterministic system on MIAX Emerald requires different cabling and switches to support lower latency and to ensure that MIAX Emerald order book updates sent via the MIAX Emerald ToM and cToM data feeds (and to OPRA) are disseminated as quickly as possible to all Members and non-Members. MIAX Emerald's different switches and cabling, and the ongoing maintenance and monitoring of those cables and switches, results in a greater allocated dollar amount to its network infrastructure than to MIAX.

[39] The Exchange notes that overall cost percentages allocated for employees in this and other areas may differ due to differing levels of compensation for individual employees assigned to similar projects at different exchanges, which is driven by additional factors such as overall performance and seniority. So, for example, as is the case here, the same number of FTEs for similar responsibilities would not result in the same cost percentage.

[40] The Exchange understands that the Investors Exchange, Inc. (''IEX'') and MEMX both allocated a percentage of their servers to the production and dissemination of market data to support proposed market data fees. *See* Securities Exchange Act Release No. 94630 (April 7, 2022), 87 FR 21945, at page 21949 (April 13, 2022) (SR–IEX–2022–02). *See also supra* note 37. The Exchange does not have insight into either MEMX's or IEX's technology infrastructure or what their determinations were based on. However, the Exchange reviewed its own technology infrastructure and believes based on its design, it is more appropriate for the Exchange to allocate a portion of its network infrastructure cost to market data based on a percentage of overall cost, not on a per server basis.

Data Center

The Exchange does not own the primary data center or the secondary data center, but instead leases space in data centers operated by third parties where the Exchange houses servers, switches and related equipment. Data Center costs include an allocation of the costs the Exchange incurs to provide the ToM and cToM data feeds in the third-party data centers where the Exchange maintains its equipment, as well as related costs. As the Data Center costs are primarily for space, power, and cooling of servers, the Exchange allocated 1.7% to the applicable Data Center costs for the ToM and cToM data feeds. The Exchange believes it is reasonable to apply the same proportionate percentage of Data Center costs to that of Network Infrastructure.

Hardware and Software Maintenance and Licenses

Hardware and Software Maintenance and Licenses includes those licenses used to operate and monitor physical assets necessary to offer the ToM and cToM data feeds. Because the hardware and software license fees are correlated to the servers used by the Exchange, the Exchange again applied an allocation of 1.7% of its costs for Hardware and Software Maintenance and Licenses to the ToM and cToM data feeds.[41]

Monthly Depreciation

The vast majority of the software the Exchange uses for its operations to generate and disseminate the ToM and cToM data feeds has been developed in-house over an extended period. This software development also requires quality assurance and thorough testing to ensure the software works as intended. Hardware used to generate and disseminate the ToM and cToM data feeds, which includes servers and other physical equipment the Exchange purchased. Accordingly, the Exchange included depreciation costs related to depreciated hardware and software used to generate and disseminate the ToM and cToM data feeds. The Exchange also included in the Depreciation costs certain budgeted improvements that the Exchange intends to capitalize and depreciate with respect to the ToM and cToM data feeds in the near-term. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost was therefore narrowly tailored to depreciation related to the ToM and cToM data feeds.

The Exchange notes that this allocation differs from its affiliated markets due to a number of factors, such as the age of physical assets and software (*e.g.,* older physical assets and software were previously depreciated and removed from the allocation), or certain system enhancements that required new physical assets and software, thus providing a higher contribution to the depreciated cost. For example, the Exchange notes that percentages it and its affiliate, MIAX, allocated to the depreciation of software and hardware used to generate and disseminate their respective ToM and cToM data feeds are nearly identical. However, the Exchange's dollar amount is lower than that of MIAX by approximately $13,000 (albeit a relatively small amount). This is due to two primary factors. First, MIAX has undergone a technology refresh since the time MIAX Emerald launched in February 2019, leading to MIAX having more hardware and software that is subject to depreciation. Second, MIAX maintains 24 matching engines while MIAX Emerald maintains only 12 matching engines. This also results in less of the Exchange's hardware and software being subject to depreciation than MIAX's hardware and software due to the greater amount of equipment and software necessary to support the greater number of matching engines on MIAX.

Allocated Shared Expenses

Finally, certain general shared expenses were allocated to the ToM and cToM data feeds. However, contrary to its prior cost analysis, rather than taking the whole amount of general shared expenses and applying an allocated percentage, the Exchange has narrowly selected specific general shared expenses relevant to the cToM data feed. The costs included in general shared expenses allocated to the ToM and cToM data feeds include office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external and internal audit expenses), and telecommunications costs. The cost of paying individuals to serve on the Exchange's Board of Directors or any committee was not allocated to providing ToM and cToM data feeds.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core service and did not double-count any expenses. Instead, as described above, the Exchange identified and allocated applicable cost drivers across its core services and used the same approach to analyzing costs to form the basis of separate proposals to amend fees for connectivity and port services[42] and this filing proposing fees for ToM and cToM. Thus, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams. The proposed fees for ToM and cToM data feeds are designed to permit the Exchange to cover the costs allocated to providing cToM data with a mark-up that the Exchange believes is modest (approximately 17%, which could decrease over time[43]), which the Exchange believes is fair and reasonable after taking into account the costs related to creating, generating, and disseminating the ToM and cToM data feeds and the fact that the Exchange will need to fund future expenditures (increased costs, improvements, etc.). The Exchange also notes that this profit margin differs slightly from the profit margin set forth in a similar fee filing by its affiliate, MIAX. This is not atypical among exchanges and is due to a number of factors that differ between these two exchanges, including a different number of market data subscribers, different costs as described in the cost allocation methodology above, and a different number of matching engines, *i.e.,* MIAX maintains 24 matching engines while MIAX Emerald maintains only 12 matching engines.

Further, the Exchange and MIAX propose to charge the same rates for their respective ToM and cToM data feeds, which are comparable to, or lower than, similar fees for similar products charged by competing exchanges. For example, for Internal Distributors of ToM and cToM, the Exchange proposes a lower fee than the fee charged by ISE for ISE's Top Quote Feed ($2,000 for the

[41] This expense may be less than the Exchange's affiliated markets, specifically MIAX Pearl, because, unlike the Exchange, MIAX Pearl (the options and equities markets) maintains an additional gateway to accommodate its member's access and connectivity needs. This added gateway contributes to the difference in allocations between the Exchange and MIAX Pearl.

[42] *See* MIAX Exchange Group Alert, ''MIAX Options, Pearl Options and Emerald Options Exchanges—January 1, 2023 Non-Transaction Fee Changes,'' issued December 9, 2022, *available at https://www.miaxglobal.com/alert/2022/12/09/miax-options-pearl-options-and-emerald-options-exchanges-january-1-2023-non.*

[43] The Exchange believes that its profit margins could decrease if U.S. inflation continues at its current rate. *See, e.g., https://www.usinflationcalculator.com/inflation/current-inflation-rates/* (last visited June 7, 2023).

Exchange vs. $3,000 for ISE).[44] NYSE Arca charges even higher fees for the NYSE Arca Options Top Feed than the Exchange's proposed fees ($2,000 for the Exchange vs. $3,000 per month plus an additional $2,000 for redistribution on NYSE Arca).[45] Accordingly, the Exchange believes that comparable and competitive pricing are key factors in determining whether a proposed fee meets the requirements of the Act, regardless of whether that same fee across the Exchange's affiliated markets leads to slightly different profit margins due to factors outside of the Exchange's control (*i.e.,* more subscribers to ToM and/or cToM on MIAX or MIAX Emerald and vice versa).

The Exchange also reiterates that prior to July of 2021, the month in which it first proposed to adopt fees for cToM, the Exchange did not previously charge any fees for cToM and its allocation of costs to cToM was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses. The Exchange is owned by a holding company that is the parent company of four exchange markets and, therefore, the Exchange and its affiliated markets must allocate shared costs across all of those markets accordingly, pursuant to the above-described allocation methodology. In contrast, the Investors Exchange LLC (''IEX'') and MEMX, which are currently each operating only one exchange, in their recent non-transaction fee filings allocate the entire amount of that same cost to a single exchange. This can result in lower profit margins for the non-transaction fees proposed by IEX and MEMX because the single allocated cost does not experience the efficiencies and synergies that result from sharing costs across multiple platforms.[46] The Exchange and its affiliated markets often share a single cost, which results in cost efficiencies that can cause a broader gap between the allocated cost amount and projected revenue, even though the fee levels being proposed are lower or competitive with competing markets (as described above). To the extent that the application of a cost-based standard results in Commission Staff making determinations as to the appropriateness of certain profit margins, the Commission Staff should consider whether the proposed fee level is comparable to, or competitive with, the same fee charged by competing exchanges and how different cost allocation methodologies (such as across multiple markets) may result in different profit margins for comparable fee levels. If Commission Staff is making determinations as to appropriate profit margins, the Exchange believes that Commission should be clear to all market participants as to what they have determined is an appropriate profit margin and should apply such determinations consistently and, in the case of certain legacy exchanges, retroactively, if such standards are to avoid having a discriminatory effect. Further, the proposal reflects the Exchange's efforts to control its costs, which the Exchange does on an ongoing basis as a matter of good business practice. A potential profit margin should not be judged alone based on its size, but is also indicative of costs management and whether the ultimate fee reflects the value of the services provided. For example, a profit margin on one exchange should not be deemed excessive where that exchange has been successful in controlling its costs, but not excessive where on another exchange where that exchange is charging comparable fees but has a lower profit margin due to higher costs. Doing so could have the perverse effect of not incentivizing cost control where higher costs alone are used to justify fees increases.

Accordingly, while the Exchange is supportive of transparency around costs and potential margins (applied across all exchanges), as well as periodic review of revenues and applicable costs (as discussed below), the Exchange does not believe that these estimates should form the sole basis of whether or not a proposed fee is reasonable or can be adopted. Instead, the Exchange believes that the information should be used solely to confirm that an Exchange is not earning—or seeking to earn—supra-competitive profits, the standard set forth in the Fee Guidance. The Exchange believes the Cost Analysis and related projections in this filing demonstrate this fact.

The Exchange notes that the Cost Analysis is based on the Exchange's 2023 fiscal year of operations and projections. It is possible, however, that such costs will either decrease or increase. To the extent the Exchange sees growth in use of ToM and cToM data feeds it will receive additional revenue to offset future cost increases. However, if use of ToM and cToM data feeds is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs.

Similarly, the Exchange expects that it would propose to decrease fees in the event that revenue materially exceeds current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and expects that it would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

Implementation

The proposed fee changes are immediately effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[47] of the Act in general, and furthers the objectives of Section 6(b)(4)[48] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of

[44] *See supra* note 22.

[45] *See supra* note 24.

[46] The Exchange acknowledges that IEX included in its proposal to adopt market data fees after offering market data for free an analysis of what its projected revenue would be if all of its existing customers continued to subscribe versus what its projected revenue would be if a limited number of customers subscribed due to the new fees. *See* Securities Exchange Act Release No. 94630 (April 7, 2022), 87 FR 21945 (April 13, 2022) (SR–IEX–2022–02). MEMX did not include a similar analysis in either of its recent non-transaction fee proposals. *See, e.g., supra* note 37. The Exchange does not believe a similar analysis would be useful here because it is amending existing fees, not proposing to charge a new fee where existing subscribers may terminate connections because they are no longer enjoying the service at no cost.

[47] 15 U.S.C. 78f.

[48] 15 U.S.C. 78f(b)(4).

Section 6(b)(5)[49] of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes prior to addressing the specific reasons the Exchange believes the proposed fees and fee structure are reasonable, equitably allocated and not unreasonably discriminatory, that the proposed fees are consistent with the fee amounts charged by competing U.S. securities exchanges. For this reason, the Exchange believes that the proposed fees are consistent with the Act generally, and Section 6(b)(5)[50] of the Act in particular.

As noted above, in the four years since the Exchange launched operations with Complex Order functionality, the Exchange has grown its monthly complex market share from 0% to 3.21% of the total electronic complex non-index volume executed on U.S. options exchanges offering complex functionality for the month of April 2023.[51] One of the primary objectives of the Exchange is to provide competition and to reduce fixed costs imposed upon the industry. Consistent with this objective, the Exchange believes that this proposal reflects a simple, competitive, reasonable, and equitable pricing structure.

Reasonableness

Overall. With regard to reasonableness, the Exchange understands that the Commission has traditionally taken a market-based approach to examine whether the SRO making the fee proposal was subject to significant competitive forces in setting the terms of the proposal. The Exchange understands that in general the analysis considers whether the SRO has demonstrated in its filing that (i) there are reasonable substitutes for the product or service; (ii) ''platform'' competition constrains the ability to set the fee; and/or (iii) revenue and cost analysis shows the fee would not result in the SRO taking supra-competitive profits. If the SRO demonstrates that the fee is subject to significant competitive forces, the Exchange understands that in general the analysis will next consider whether there is any substantial countervailing basis to suggest the fee's terms fail to meet one or more standards under the Exchange Act. The Exchange further understands that if the filing fails to demonstrate that the fee is constrained by competitive forces, the SRO must provide a substantial basis, other than competition, to show that it is consistent with the Exchange Act, which may include production of relevant revenue and cost data pertaining to the product or service.

The Exchange has not determined its proposed overall market data fees based on assumptions about market competition, instead relying upon a cost-plus model to determine a reasonable fee structure that is informed by the Exchange's understanding of different uses of the products by different types of participants. In this context, the Exchange believes the proposed fees overall are fair and reasonable as a form of cost recovery plus the possibility of a reasonable return for the Exchange's aggregate costs of offering the ToM and cToM data feeds. The Exchange believes the proposed fees are reasonable because they are designed to generate annual revenue to recoup some or all of Exchange's annual costs of providing ToM and cToM data with a reasonable mark-up. As discussed in the Purpose section, the Exchange estimates this fee filing will result in annual revenue of approximately $804,000, representing a potential mark-up of just 17% over the cost of providing ToM and cToM data. Accordingly, the Exchange believes that this fee methodology is reasonable because it allows the Exchange to recoup all of its expenses for providing the ToM and cToM data products (with any additional revenue representing no more than what the Exchange believes to be a reasonable rate of return). The Exchange also believes that the proposed fees are reasonable because they are generally less than the fees charged by competing options exchanges for comparable market data products, notwithstanding that the competing exchanges may have different system architectures that may result in different cost structures for the provision of market data.

The Exchange believes the proposed fees for the ToM and cToM data feeds are reasonable when compared to fees for comparable products, compared to which the Exchange's proposed fees are generally lower, as well as other comparable data feeds priced significantly higher than the Exchange's proposed fees for the ToM and cToM data feeds.[52]

Internal Distribution Fees. The Exchange believes that it is reasonable to charge fees to access the ToM and cToM data feeds for Internal Distribution because of the value of such data to subscribers in their profit-generating activities. The Exchange also believes that the proposed monthly Internal Distribution fee for cToM is reasonable as it is similar to the amount charged by at least one other exchange of comparable size for comparable data products, and lower than the fees charged by other exchange for comparable data products.[53]

External Distribution Fees. The Exchange believes that it is reasonable to charge External Distribution fees for the ToM and cToM data feeds because vendors receive value from redistributing the data in their business products provided to their customers. The Exchange believes that charging External Distribution fees is reasonable because the vendors that would be charged such fees profit by re-transmitting the Exchange's market data to their customers. These fees would be charged only once per month to each vendor account that redistributes any ToM and cToM data feeds, regardless of the number of customers to which that vendor redistributes the data.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the ToM and cToM data feeds are reasonable.

Equitable Allocation

Overall. The Exchange believes that its proposed fees are reasonable, fair, and equitable, and not unfairly discriminatory because they are designed to align fees with services provided. The Exchange believes the proposed fees for the ToM and cToM data feeds are allocated fairly and equitably among the various categories of users of the feeds, and any differences among categories of users are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all data recipients that choose to subscribe to the ToM and cToM data feeds. Any subscriber or vendor that chooses to subscribe to the ToM and cToM data feeds is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to subscribe to one or more ToM and cToM data feeds is based on objective

[49] 15 U.S.C. 78f(b)(5).

[50] 15 U.S.C. 78f(b)(5).

[51] *See supra* note 21.

[52] *See supra* notes 22, 24, and 27, and accompanying text.

[53] *Id.*

differences in usage of ToM and cToM data feeds among different Members, which are still ultimately in the control of any particular Member. The Exchange believes the proposed pricing of the ToM and cToM data feeds is equitably allocated because it is based, in part, upon the amount of information contained in each data feed and the value of that information to market participants.

Internal Distribution Fees. The Exchange believes the proposed monthly fees for Internal Distribution of the ToM and cToM data feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the ToM and cToM data feeds for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for External Distribution of the ToM and cToM data feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the ToM and cToM data feeds that choose to redistribute the feeds externally, regardless of what business they operate. The Exchange also believes that the proposed monthly fees for External Distribution are equitably allocated when compared to lower proposed fees for Internal Distribution because data recipients that are externally distributing ToM and cToM data feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess Internal Distributors fees that are less than the fees assessed for External Distributors for subscriptions to the ToM and cToM data feeds because Internal Distributors have limited, restricted usage rights to the market data, as compared to External Distributors, which have more expansive usage rights. All Members and non-Members that decide to receive any market data feed of the Exchange (or its affiliates, MIAX Pearl and MIAX), must first execute, among other things, the MIAX Exchange Group Exchange Data Agreement (the ''Exchange Data Agreement'').[54] Pursuant to the Exchange Data Agreement, Internal Distributors are restricted to the ''internal use'' of any market data they receive. This means that Internal Distributors may only distribute the Exchange's market data to the recipient's officers and employees and its affiliates.[55] External Distributors may distribute the Exchange's market data to persons who are not officers, employees or affiliates of the External Distributor,[56] and may charge their own fees for the redistribution of such market data. External Distributors may monetize their receipt of the ToM and cToM data feeds by charging their customers fees for receipt of the Exchange's cToM data. Internal Distributors do not have the same ability to monetize the Exchange's ToM and cToM data feeds. Accordingly, the Exchange believes it is fair, reasonable and not unfairly discriminatory to assess External Distributors a higher fee for the Exchange's ToM and cToM data feeds as External Distributors have greater usage rights to commercialize such market data and can adjust their own fee structures if necessary.

The Exchange also utilizes more resources to support External Distributors versus Internal Distributors, as External Distributors have reporting and monitoring obligations that Internal Distributors do not have, thus requiring additional time and effort of Exchange staff. For example, External Distributors have monthly reporting requirements under the Exchange's Market Data Policies.[57] Exchange staff must then, in turn, process and review information reported by External Distributors to ensure the External Distributors are redistributing cToM data in compliance with the Exchange's Market Data Agreement and Policies.

The Exchange believes the proposed cToM fees are equitable and not unfairly discriminatory because the fee level results in a reasonable and equitable allocation of fees amongst subscribers for similar services, depending on whether the subscriber is an Internal or External Distributor. Moreover, the decision as to whether or not to purchase market data is entirely optional to all market participants. Potential purchasers are not required to purchase the market data, and the Exchange is not required to make the market data available. Purchasers may request the data at any time or may decline to purchase such data. The allocation of fees among users is fair and reasonable because, if market participants decide not to subscribe to the data feed, firms can discontinue their use of the cToM data.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the ToM and cToM data feeds are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees for the ToM and cToM data feeds are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. The Exchange believes that the proposed fees are not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the same ToM and cToM data feeds. Any vendor or subscriber that chooses to subscribe to the ToM and cToM data feeds is subject to the same Fee Schedule, regardless of what type of business they operate. In sum, each vendor or subscriber has the ability to choose the best business solution for itself. The Exchange does not believe it is unfairly discriminatory to base pricing upon the amount of information contained in each data feed and the value of that information to market participants.

Internal Distribution Fees. The Exchange believes the proposed monthly fees for Internal Distribution of the ToM and cToM data feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same ToM and cToM data feeds for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for redistributing the ToM and cToM data feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same ToM and cToM data feeds that choose to redistribute the feed(s) externally. The Exchange also believes that having higher monthly fees for External Distribution than Internal Distribution is not unfairly discriminatory because data recipients that are externally distributing ToM and cToM data feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

For all of the foregoing reasons, the Exchange believes that the proposed

[54] *See* Exchange Data Agreement, *available at https://www.miaxglobal.com/markets/us-options/all-options/market-data-vendor-agreements.*

[55] *See id.*

[56] *See id.*

[57] *See* Section 6 of the Exchange's Market Data Policies, *available at https://www.miaxglobal.com/sites/default/files/page-files/MIAX_Exchange_Group_Market_Data_Policies_07202021.pdf.*

fees for the Exchange Data Feeds are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[58] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposed fees place certain market participants at a relative disadvantage to other market participants because, as noted above, the proposed fees are associated with usage of the data feed by each market participant based on whether the market participant internally or externally distributes the Exchange data, which are still ultimately in the control of any particular Member, and such fees do not impose a barrier to entry to smaller participants. Accordingly, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed fees reflects the types of data consumed by various market participants and their usage thereof.

Inter-Market Competition

The Exchange does not believe the proposed fees place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, market participants are not forced to subscribe to either data feed, as described above. Additionally, other exchanges have similar market data fees with comparable rates in place for their participants.[59] The proposed fees are based on actual costs and are designed to enable the Exchange to recoup its applicable costs with the possibility of a reasonable profit on its investment as described in the Purpose and Statutory Basis sections. Competing exchanges are free to adopt comparable fee structures subject to the Commission's rule filing process. Allowing the Exchange, or any new market entrant, to waive fees (as the Exchange did for cToM) for a period of time to allow it to become established encourages market entry and thereby ultimately promotes competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[60] and Rule 19b–4(f)(2)[61] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–EMERALD–2023–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–EMERALD–2023–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–EMERALD–2023–13 and should be submitted on or before July 17, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13453 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, June 29, 2023.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3),

[58] 15 U.S.C. 78f(b)(8).

[59] *See supra* notes 22, 24, and 27, and accompanying text.

[60] 15 U.S.C. 78s(b)(3)(A)(ii).

[61] 17 CFR 240.19b–4(f)(2).

[62] 17 CFR 200.30–3(a)(12).

(a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: June 22, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–13607 Filed 6–22–23; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97770; File No. SR–CboeEDGX–2023–030]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Amend Its Fee Schedule

June 20, 2023.

On April 17, 2023, Cboe EDGX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its fee schedule. The proposed rule change was published for comment in the **Federal Register** on May 3, 2023.[3] The Commission did not receive any comment letters. On June 1, 2023, the Exchange withdrew the proposed rule change (CboeEDGX–2023–030).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13456 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97763; File No. SR–OCC–2023–004]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Proposed Rule Change by The Options Clearing Corporation To Amend and Enhance the Options Clearing Corporation's Model Risk Management Policy

June 20, 2023.

I. Introduction

On April 27, 2023, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2023–004 pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 [2] thereunder. The proposed rule change would amend OCC's Model Risk Management Policy (the ''MRM Policy'' or ''Policy'') to, in part, broaden the scope of OCC's processes for managing model risk. The proposed rule change was published for public comment in the **Federal Register** on May 17, 2023.[3] The Commission has received no comments regarding the proposed rule change.

II. Background [4]

OCC is a central counterparty (''CCP''), which means it interposes itself as the buyer to every seller and seller to every buyer for financial transactions. As the CCP for the listed options markets in the U.S., as well as for certain futures, OCC is exposed to certain risks arising from its relationships with its members. To manage such risks, OCC uses quantitative methods to make estimates, forecasts, and projections in the context of its credit risk models, margin system and related models, and liquidity risk models (each a ''Risk Model'').[5]

OCC's use of models inherently exposes OCC to model risk, such as the risk of losses arising out of decisions based on incorrect or misused model outputs. For example, a model that is not managed properly could potentially cause OCC to under-collect the collateral used to cover credit risk posed by a Clearing Member. OCC's MRM Policy outlines OCC's framework for managing model risk and defines the roles and responsibilities throughout the risk model and methodology lifecycle.

Currently, the Policy applies to the Risk Models that OCC uses to determine, quantify, or measure actual or potential risk exposures or risk mitigating actions.[6] The Policy also describes and outlines the roles and responsibilities of various groups at OCC with regard to model risk management.[7] Further, changes to the Policy are subject to annual review and approval by the Risk Committee of OCC's Board of Directors.[8] As described in more detail below, OCC proposes to expand the application of the Policy to contemplate methodologies comprising Risk Models and their related inputs and outputs, rather than only individual Risk Models. To accommodate the expansion of the Policy's scope beyond individual Risk Models, OCC proposes to revise the roles and responsibilities described in the MRM Policy. To further broaden the Policy, OCC proposes adding a new section regarding the use of tools with quantitative or mathematical techniques not focused on credit risk models, margin system and related models, and liquidity risk models (such tools and techniques referred to as ''Risk Applications'').[9]

A. Expanding From Risk Models to Risk Methodologies

As noted above, OCC proposes to expand the scope of its MRM Policy to encompass not only individual Risk Models, but also the methodologies such models comprise. Such ''Risk Methodologies'' include the related inputs and outputs of OCC's Risk Models, which OCC uses to estimate or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 97393 (April 27, 2023), 88 FR 27940.

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 97484 (May 11, 2023), 88 FR 31549 (May 17, 2023) (File No. SR–OCC–2023–004) (''Notice of Filing'').

[4] Capitalized terms used but not defined herein have the meanings specified in OCC's Rules and By-Laws, available at *https://www.theocc.com/about/publications/bylaws.jsp.*

[5] *See* Securities Exchange Act Release No. 82785 (Feb. 27, 2018), 83 FR 9345 (Mar. 5, 2018) (File No. SR–OCC–2017–011) (approving the formalization of the MRM Policy).

[6] *See id.*

[7] *See id.*

[8] *See* Notice of Filing, 88 FR at 31552, n. 22.

[9] OCC also proposes non-material verbiage changes, such as updating references to internal policies and removing duplicative definitions. For example, OCC would remove standalone definitions at the end of the Policy where either the term is defined in the body of the Policy or is not used in the Policy.

compute the distinct aspects of OCC's credit (*i.e.,* Clearing Fund and margin) and liquidity resources. To effectuate this expansion, OCC proposes to replace references to Risk Models with references to Risk Methodologies, and to revise the roles and responsibilities of OCC staff as described below.

B. OCC Internal Roles and Responsibilities

OCC proposes changes to the roles and responsibilities defined in its MRM Policy to accommodate the shift in focus from Risk Models to Risk Methodologies. Such changes include the expansion of the Model Risk Management (''MRM'') department's responsibilities. MRM would become responsible for validating both Risk Models *and Risk Methodologies* no less than annually.[10] Further, the proposed Policy would require MRM, in validating OCC's Risk Methodologies, to review the performance of each methodology and verify the related software implementation.[11] Additionally, certain references to a specific department would be replaced with references to such department's parent to encompass a broader set of staff and responsibilities. For example, discussion of OCC's Quantitative Risk Management (''QRM'') department's role in monitoring the use and performance of individual Risk Models would be replaced with discussion of OCC's Financial Risk Management (''FRM'') department, of which QRM is a part. Similarly, OCC proposes to expand the responsibilities of the Model Risk Working Group (''MRWG'') in accordance with the expansion of the MRM Policy.[12] Currently, the MRWG reviews risk model changes and determines which should be sent to OCC's Management Committee for further consideration. OCC proposes to expand the MRWG's purview to include review of Risk Methodologies (not just individual Risk Models).[13]

C. New Section on Risk Applications

Lastly, OCC proposes to add a new section regarding the use of Risk Applications. The current MRM Policy focuses on OCC's financial risk management (*i.e.,* credit risk models, margin system and related models, and liquidity risk models).[14] The Risk Applications are tools with quantitative or mathematical techniques specifically not focused on financial risk management. Although the Risk Applications do not affect OCC's Risk Methodologies (or the underlying Risk Models), the processes for managing the potential risks are similar, so OCC proposes to encompass both Risk Methodologies and Risk Applications in its Model Risk Management Policy going forward.[15]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.[16] After carefully considering the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Exchange Act,[17] Rules 17Ad–22(e)(3), (e)(4), (e)(6), and (e)(7)[18] thereunder as described in detail below.

A. Consistency With Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that a clearing agency's rules are designed to assure the safeguarding of securities and funds in custody or control of the clearing agency or for which it is responsible.[19]

The Commission believes that the proposed change supports OCC's ability to safeguard of securities and funds because the proposed change builds on the foundation of OCC's current processes to provide a more complete view of model risk at OCC. The MRM Policy governs OCC's processes for reducing model risk. Expanding OCC's view of model risk to encompass Risk Methodologies rather than focusing only on individual Risk Models in isolation will give OCC a more comprehensive understanding of model risk. The Commission continues to believe that reducing model risk may allow OCC to avoid taking non-defaulters' resources to manage a default by covering losses and shortfalls with a defaulter's collateral.[20] Similarly, applying its model risk management practices to OCC's Risk Applications will reduce the likelihood of loss arising out of decisions based on those applications.

The Commission believes, therefore, that the proposal is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.

B. Consistency With Rule 17Ad–22(e)(4), (e)(6), and (e)(7) Under the Exchange Act

Rules 17Ad–22(e)(4)(vii), (e)(6)(vii) and (e)(7)(vii) under the Exchange Act require a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, require the performance of a model validation for its credit risk models, margin system and related models, and liquidity risk models not

[10] Such validations would be performed both prior to implementation as well as on an ongoing basis to evaluate the performance of individual Risk Models. Pursuant to the MRM Policy, OCC requires MRM to validate its Risk Models annually, which OCC defines as every ''12 months or 365 days.'' The head of MRM would be responsible for developing and maintain OCC's Annual Model Validation Plan. OCC proposes to use the more generic ''head of MRM'' to accommodate non-material title changes that may occur from time to time. For example, the head of MRM was previously the Executive Director of MRM, but is currently the Managing Director, Model Risk Management.

[11] Such validations would be governed by two procedures underlying the MRM Policy (the Methodology and Model Validation Procedure and the Methodology and Model Performance Monitoring Procedure), which OCC provided to staff as confidential exhibits to File No. SR–OCC–2023–004.

[12] The MRWG assists OCC's Management Committee in overseeing and governing OCC's model-related risk issues. In addition to the expansion of responsibilities described here, OCC proposes to describe the membership of the MRWG more generally in the MRM Policy than is currently the case. Based on a review of OCC's Model Risk Working Group Procedure, the Commission understands that the MRM Policy change will not remove any of the current departments represented on the MRWG. OCC provided the MRWG Procedure as a confidential exhibit to File No. SR–OCC–2023–004.

[13] OCC also proposes non-substantive changes that touch on roles and responsibilities. For example, OCC's Chief Financial Risk Officer (''CFRO'') has responsibility for reviewing and approving Risk Model documentation. Currently, the Policy describes review of documentation as the responsibility of the CFRO or the CFRO's delegate. The proposed Policy would instead describe it as the responsibility of the CFRO pursuant to OCC's Risk Methodology Documentation Procedure. According to OCC, the change would not result in any substantive change in the roles and responsibilities. *See* Notice of Filing, 88 FR at 31550, n. 10.

[14] *See* Securities Exchange Act Release No. 82785 (Feb. 27, 2018), 83 FR 9345 (Mar. 5, 2018) (File No. SR–OCC–2017–011) (approving the formalization of the MRM Policy).

[15] The proposed MRM Policy would also note that OCC uses user developed applications (''UDAs''), which are analytical applications designed to manipulate and analyze data that are used on a repetitive basis and might expose OCC to Model Risk, and that the governance for such UDAs is outlined in OCC's User Developed Application Management Procedure.

[16] 15 U.S.C. 78s(b)(2)(C).

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] 17 CFR 240.17Ad–22(e)(3), 17 CFR 240.17Ad–22(e)(4), 17 CFR 240.17Ad–22(e)(6), and 17 CFR 240.17Ad–22(e)(7).

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] *See* Securities Exchange Act Release No. 82785 (Feb. 27, 2018), 83 FR 9345, 9346 (Mar. 5, 2018) (File No. SR–OCC–2017–011).

less than annually, or more frequently as may be contemplated by the covered clearing agency's risk management framework established pursuant to Rule 17Ad–22(e)(3) under the Exchange Act.[21] The Commission has stated that a covered clearing agency generally should consider, in establishing and maintaining policies and procedures for margin, whether it regularly reviews and validates its margin system.[22]

The Commission previously found the adoption of the MRM Policy to be consistent with Rules 17Ad–22(e)(4)(vii), (e)(6)(vii), and (e)(7)(vii) under the Exchange Act because the MRM Policy requires the annual validations of the performance, parameters, and assumptions of OCC's credit risk, margin, and liquidity risk models. As described above, OCC proposes to broaden the scope of the Policy to contemplate not only individual Risk Models, but also the Risk Methodologies such models comprise. The proposal includes governance changes that would facilitate expansion of the Policy's scope without reducing the current validation obligations of OCC's MRM department. The Commission believes that expanding the scope of the MRM Policy to encompass Risk Methodologies without weakening the arrangements governing the validation of individual Risk Models would strengthen OCC's validation of its credit risk models, margin system and related models, and liquidity risk models.

The Commission believes, therefore, that the proposal is consistent with the requirements of Rules 17Ad–22(e)(4)(vii), (e)(6)(vii) and (e)(7)(vii) under the Exchange Act.[23]

C. Consistency With Rule 17Ad–22(e)(3) Under the Exchange Act

Rule 17Ad–22(e)(3)(i) requires, among other things, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually.[24]

Currently, the MRM Policy (and related risk management processes) applies to Risk Models, which include only credit risk models, margin system and related models, and liquidity risk models (*i.e.,* financial risk management models). As proposed, the MRM Policy would apply to quantitative or mathematical techniques (*i.e.,* the Risk Applications) that OCC uses outside of financial risk management. As a result, OCC is proposing to apply a consistent risk management approach to Risk Methodologies and Risk Applications. The Commission believes that broadening the application of risk management processes to cover models that deal with both financial risks and non-financial risks is consistent with the maintain a sound risk management framework for comprehensively managing such risks.

The Commission believes, therefore, that the proposal is consistent with the requirements of Rule 17Ad–22(e)(3)(i) under the Exchange Act.[25]

VI. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change, is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act[26] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[27] that the proposed rule change (SR–OCC–2022–004) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13449 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 240.17Ad–22(e)(4)(vii), (e)(6)(vii) and (e)(7)(vii). The requirements of Rule 17Ad–22(e)(4) pertain to the effective identification, measurement, monitoring, and management of credit exposures. 17 CFR 240.17Ad–22(e)(4). The requirements of Rule 17Ad–22(e)(6), which apply to a covered clearing agency that performs central counterparty services, pertain to the covering of a covered clearing agency's credit exposures to its participants. 17 CFR 240.17Ad–22(e)(6). The requirements of Rule 17Ad–22(e)(7) pertain to the effective measurement, monitoring, and management of liquidity risk. 17 CFR 240.17Ad–22(e)(7).

[22] *See* Standards for Covered Clearing Agencies, Securities Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70819 (Oct. 13, 2016).

[23] 17 CFR 240.17Ad–22(e)(4)(vii), (e)(6)(vii) and (e)(7)(vii).

[24] 17 CFR 240.17Ad–22(e)(3)(i).

[25] 17 CFR 240.17Ad–22(e)(3)(i).

[26] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97747; File No. SR–NYSE–2023–23]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Partial Cabinet Solution Bundles Offered as Part of Its Co-Location Services

June 16, 2023.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 5, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Partial Cabinet Solution bundles offered as part of its co-location services. The description of the Partial Cabinet Solution bundles in the Connectivity Fee Schedule (''Fee Schedule'') would be updated accordingly. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Partial Cabinet Solution (''PCS'') bundles offered to Users as part of its co-location services.[4] The description of the PCS bundles in the Fee Schedule would be updated accordingly.

Background

The Fee Schedule currently lists two PCS bundles, Options C and D. As originally formulated, each PCS bundle option included a partial cabinet powered to a maximum of 2 kilowatts (''kW''); access to the Liquidity Center Network (''LCN'') and internet protocol (''IP'') networks, the local area networks available in the data center; two fiber cross connections; and connectivity to one of two time feeds.[5] Users are only eligible to purchase PCS bundles if they meet specified requirements.[6]

In May 2020, the Exchange amended PCS bundle Options C and D to add two 10 Gb connections to the NMS Network to each bundle. The NMS Network is an alternate dedicated network connection that Users use to access the NMS feeds for which the Securities Industry Automation Corporation is engaged as the securities information processor.[7] These two 10 Gb NMS Network connections were added to the Option C and D bundles at no additional cost.

The Exchange expects that the proposed rule change would become operative no later than September 1, 2023. The Exchange will announce the date through a customer notice.

Proposed Changes to the Current PCS Bundles

The Exchange proposes to amend current Options C and D so that Users may elect to include 40 Gb connections to the LCN, IP network and NMS network, rather than just 10 Gb connections, in their PCS bundles. There would be no change to the existing fees for the PCS bundles.

The purpose of the proposed changes to the PCS bundles is to allow a User to connect to all or a large part of the expanded Options Price Reporting Authority (''OPRA'') feed. More specifically, OPRA has announced that it is expanding data dissemination from a 48-line to a 96-line multicast data distribution network.[8] As a result of this change, OPRA has estimated that an increase in bandwidth will be needed to consume the OPRA feed.[9] This means that a 10 Gb network connection will not suffice for a User that wants to connect to all or a large part of the expanded OPRA feed.[10] Current and potential Users with PCS bundles have requested the inclusion of 40 Gb connections in the bundles.

The ability to connect with a larger section of the OPRA feed is not the only benefit that would occur. A User with a revised PCS bundle would be able to use it to connect to more of the Included Data Products and Third Party Data Feeds. The addition of 40 Gb connections may allow a User to have the same size connection in co-location that it has elsewhere. As the Exchange understands that 40 Gb connections are increasingly considered the industry standard for options trading, and understands that smaller customers—such as those who might qualify for a PCS—often prefer to normalize all of their equipment to one connection size, this may be a benefit to some Users.

There would be no change to the initial charge and monthly recurring charge (''MRC'') for the PCS bundles. As a result of the change a User would receive an enhanced offering, with the option of both 10 Gb and 40 Gb connections, for the same price that the Exchange currently charges for PCS bundles with 10 Gb options only. Users with a PCS bundle would not have to pay a second initial charge to change the content of their PCS bundles. As a result, a User would be able to upgrade its PCS bundle from 10 Gb to 40 Gb, in whole or, if it opts to retain some 10 Gb connections, in part.

To implement the proposed changes as well as remove or update obsolete text, the Exchange proposes to make the following amendments to the description of PCS bundles Options C and D:

- Update the names to Options A and B. Currently no PCS bundles use those names,[11] and the Exchange believes that continuing to use Option C and Option D as names could be confusing as a result.
- Amend the description to state that Users may elect to include 40 Gb connections to the LCN, IP network and NMS network, rather than just 10 Gb connections, in their PCS bundles.
- Consistent with the requirements for NMS Network connections,[12] add text stating that a purchaser of a Partial Cabinet Solution must select NMS Network connections of the same size (*i.e.,* 10 Gb or 40 Gb) as the related LCN and IP network connections.
- Currently, the Fee Schedule includes text regarding a reduced MRC for PCS bundles for 24 months, which applied so long as a User ordered its PCS bundle on or before December 31, 2020. Since that time has expired, the text has become obsolete, and the Exchange proposes to delete it.

The amended portion of the Fee Schedule would read as follows (proposed deletions in brackets, proposed additions *italicized*):

[4] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2023–32, SR–NYSEArca–2023–42, SR–NYSECHX–2023–12, and SR–NYSENAT–2023–10.

[5] *See* Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (February 11, 2016) (SR–NYSE–2015–53).

[6] *See id.* The requirements are set forth in Note 1 under ''Colocation Notes.''

[7] *See* Securities Exchange Act Release No. 88837 (May 7, 2020), 85 FR 28671 (May 13, 2020) (SR–NYSE–2019–46, SR–NYSEAMER–2019–34, SR–NYSEArca–2019–61, SR–NYSENAT–2019–19).

[8] *See* Securities Industry Automation Corporation, *Memo to OPRA Multicast Subscribers,* August 31, 2022, at *https://assets.website-files.com/5ba40927ac854d8c97bc92d7/6377e5e4114b88c77be5552c_OPRA%20Migration%20to%2096%20Multicast%20Line%20Network_Q3%20Postponement.pdf.* Connectivity to the OPRA feed is an Included Data Product available over the IP network and the NMS network.

[9] *See id.,* at 2 (providing estimated bandwidth requirements).

[10] The proposed change would be of utility even if OPRA were not expanding its data distribution network, as a User cannot connect to all of the OPRA feed with the current 10 Gb connections in the PCS bundles.

[11] The previous Options A and B were deleted in 2022. *See* Securities Exchange Act Release No. 95968 (October 4, 2022), 87 FR 61421 (November 11, 2022) (SR–NYSE–2022–45).

[12] *See* 85 FR 28671, *supra* note 7, at 28674 (stating that ''if a User purchases a service that includes a 10 Gb or 40 Gb IP or LCN network connection, that purchase would include an NMS Network connection of the same size''). By way of example, if a User with a PCS bundle selected one 10 Gb LX LCN connection and one 40 Gb IP network connection, it would receive one 10 Gb NMS connection and one 40 Gb NMS connection. If the User instead chose 10 Gb for both its LCN and IP network connection, it would receive two 10 Gb NMS connections.

Type of service	Description	Amount of charge
* *	* * *	* *
Partial Cabinet Solution bundles ..... Notes: A User and its Affiliates are limited to one Partial Cabinet Solution bundle at a time. A User and its Affiliates must have an Aggregate Cabinet Footprint of 2 kW or less to qualify for a Partial Cabinet Solution bundle. See Note 1 under ''Colocation Notes.''	Option *A*[C]: 1 kW partial cabinet, 1 LCN connection (10 Gb LX *or 40 Gb*), 1 IP network connection (10 Gb *or 40 Gb*), 2 NMS Network connections (10 Gb *or 40 Gb* each), 2 fiber cross connections and either the Network Time Protocol Feed or Precision Timing Protocol.	$10,000 initial charge per bundle plus [monthly charge per bundle as follows: • For Users that order on or before December 31, 2020: $7,000 monthly for first 24 months of service, and $14,000 monthly thereafter. • For Users that order after December 31, 2020:]$14,000 monthly *charge per bundle*.
A purchaser of a Partial Cabinet Solution must select NMS Network connections of the same size (i.e. 10 Gb or 40 Gb) as the related LCN and IP network connections.	Option *B*[D]: 2 kW partial cabinet, 1 LCN connection (10 Gb LX *or 40 Gb*), 1 IP network connection (10 Gb *or 40 Gb*), 2 NMS Network connections (10 Gb *or 40 Gb* each), 2 fiber cross connections and either the Network Time Protocol Feed or Precision Timing Protocol.	$10,000 initial charge per bundle plus [monthly charge per bundle as follows: • For Users that order on or before December 31, 2020: $7,500 monthly for first 24 months of service, and $15,000 monthly thereafter. • For Users that order after December 31, 2020:]$15,000 monthly *charge per bundle.*

The PCS bundles would continue to include a 1 kw or 2 kw partial cabinet and either the Network Time Protocol Feed or the Precision Timing Protocol. The requirements set forth in Note 1 under ''Colocation Notes'' would continue to apply.

General

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally.

Users that require other sizes or combinations of cabinets, network connections, and cross connects could still request them. As is currently the case, the purchase of any co-location service, including PCS bundles, is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The proposed changes are not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposed Change Is Reasonable

The Exchange believes that it is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest to expand the connectivity options in the PCS bundles because it would allow Users to connect to all or a large part of the expanded OPRA feed. As noted above, OPRA has announced that it is expanding data dissemination from a 48-line to a 96-line multicast data distribution network.[16] As a result of the change, OPRA has estimated that an increase in bandwidth will be needed to consume the OPRA feed.[17] This means that a 10 Gb network connection would not suffice for a User that wanted to connect to all or a large part of the expanded OPRA feed. The proposed revised PCS bundles allow the User to connect to all or a large part of the expanded feed, however.

The Exchange also believes that it is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest to expand the connectivity options in the PCS bundles because a User with a revised PCS bundle would be able to use it to connect to more of the Included Data Products and Third Party Data Feeds. Moreover, the addition of 40 Gb connections may allow a User to have the same size connection in co-location that it has elsewhere. That said, although the Exchange proposes to expand the connectivity options within the two PCS bundles, a User that currently has a PCS bundle would not be obligated to make any changes.

The Exchange further believes that it is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest to expand the connectivity options in the PCS bundles because it would be responsive to requests from current and potential Users of PCS bundles, who have asked for the bundles to include 40 Gb connections.

The Exchange also believes that the proposed change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest because there would be no change to the initial charge and MRC for the PCS bundles. Accordingly, the Exchange believes that the proposed change is reasonable because the change would mean that a User would receive an enhanced offering, with the option of both 10 Gb and 40 Gb connections, for the same price that the Exchange currently charges for PCS bundles with 10 Gb options only. A User with a PCS bundle would not have to pay a second initial charge to upgrade its PCS bundle from

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(4).

[16] *See supra* note 8.

[17] *See id.,* at 2 (providing estimated bandwidth requirements).

10 Gb to 40 Gb in whole or, if it opts to retain some 10 Gb connections, in part.

The Exchange believes that it is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest to add text stating that a purchaser of a Partial Cabinet Solution must select NMS Network connections of the same size (*i.e.,* 10 Gb and 40 Gb), as the related LCN or IP network connection. The requirement would be consistent with the current requirements for NMS Network connections [18] and so all Users would be treated equally. The Exchange believes that adding such text would alleviate any possible customer confusion as to whether the same requirements would apply to the PCS bundles. In this way, it would enhance the clarity and transparency of the Fee Schedule.

The Exchange believes that updating the names of the PCS bundles from Option C and D to Option A and B and removing obsolete text from the Fee Schedule would be reasonable for the same reasons. It would make the Fee Schedule easier to read and understand, alleviating possible customer confusion.

The Proposed Change Is Equitable and Not Unfairly Discriminatory

The Exchange believes that the proposed change provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers because, even though the connectivity options available in a PCS bundle would increase, there would be no change to the initial charge and MRC for a PCS bundle. A User with a PCS bundle would not have to pay a second initial charge to upgrade its PCS bundle from 10 Gb to 40 Gb in whole or, if it opts to retain some 10 Gb connections, in part.

Further, the Exchange believes that the proposed change is equitable and not unfairly discriminatory since, as is true now, only Users that purchased a PCS bundle would be charged for it. The proposed change would not apply differently to distinct types or sizes of market participants but would apply to all Users equally. Moreover, although the Exchange proposes to expand the connectivity options within the two PCS bundles, a User that currently has a PCS bundle would not be obligated to make any changes. Users that require other sizes or combinations of cabinets, network connections, and cross connects could still request them. As is currently the case, the purchase of any co-location service, including PCS bundles, would be completely voluntary.

The Exchange believes that it is equitable and not unfairly discriminatory to add text stating that purchaser of a Partial Cabinet Solution must select NMS Network connections of the same size (*i.e.,* 10 Gb or 40 Gb) as the related LCN and IP network connections. The requirement would be consistent with the current requirements for NMS Network connections,[19] and so all Users with NMS Network connections would be treated equally. The Exchange believes that adding such text would alleviate any possible customer confusion as to whether the same requirements would apply to the PCS bundles.

The Exchange also believes that updating the names of the PCS bundles and removing obsolete text from the Fee Schedule would be equitable and not unfairly discriminatory, as it would enhance the clarity and transparency of the Fee Schedule. It would make the Fee Schedule easier to read and understand, alleviating possible customer confusion for all market participants.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms, and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.[20] The proposed expansion of the existing PCS bundles would allow Users to connect to all or a large part of the expanded OPRA feed, unlike the 10 Gb network connections currently offered in the PCS bundles. More specifically, as noted above, OPRA has announced that it is expanding data dissemination from a 48-line to a 96-line multicast data distribution network.[21] As a result of the change, OPRA has estimated that an increase in bandwidth will be needed to consume the OPRA feed.[22] This means that a 10 Gb network connection would not suffice for a User that wanted to connect to all or a large part of the expanded OPRA feed. The proposed revised PCS bundles allow the User to connect to all or a large part of the expanded feed, however.

A User with a revised PCS bundle also would be able to use it to connect to more of the Included Data Products and Third Party Data Feeds, and the addition of 40 Gb connections may allow a User to have the same size connection in co-location that it has elsewhere.

The Exchange does not believe that the proposed rule change would place any User at a relative disadvantage compared to other Users, but rather that competition among Users would be enhanced. By allowing PCS bundles to include 40 Gb connections, the proposed change would allow smaller Users to not only take advantage of the option for co-location services with a PCS bundle but also compete with Users that have 40 Gb connections. The smaller Users include those with minimal power or cabinet space demands or those for which the costs attendant with having a dedicated cabinet or greater network connection bandwidth are too burdensome. The PCS bundles originally were designed to make it more cost effective for such Users to compete,[23] and the Exchange believes that the proposed change would enhance their ability to do so. The proposed change would be responsive to requests from current and potential Users of PCS bundles, who have asked for the bundles to include 40 Gb connections.

The proposed rule change would not impose a burden on competition because it would expand the existing PCS bundles without changing the initial charge or MRC or otherwise adding any fees. As a result of the change a User would receive an enhanced offering, with the option of both 10 Gb and 40 Gb connections, for the same price that the Exchange currently charges for PCS bundles with 10 Gb options only. A User with a PCS bundle would not have to pay a second initial charge to upgrade its PCS bundle from 10 Gb to 40 Gb in whole or, if it opts to retain some 10 Gb connections, in part. As is true now, only Users that

[18] *See* 85 FR 28671, *supra* note 7, at 28674 (stating that ''if a User purchases a service that includes a 10 Gb or 40 Gb IP or LCN network connection, that purchase would include an NMS Network connection of the same size'').

[19] *See id.*

[20] 15 U.S.C. 78f(b)(8).

[21] *See supra* note 8.

[22] *See id.,* at 2 (providing estimated bandwidth requirements).

[23] *See* 81 FR 7394, *supra* note 5, at 7396.

purchased a PCS bundle would be charged for it.

All Users would be able to choose what size connections they want, and all Users, whether or not they had a PCS bundle, would be subject to the same requirements for connectivity to the NMS network. Accordingly, the Exchange does not believe that the proposed rule change would place any User at a relative disadvantage compared to other Users.

Finally, the Exchange believes that removing obsolete text from the Fee Schedule would not place any burden on competition that is not necessary or appropriate. Rather, it would benefit competition, as it would enhance the clarity and transparency of the Fee Schedule. It would make the Fee Schedule easier to read and understand, alleviating possible customer confusion.

For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [24] and Rule 19b–4(f)(6) thereunder.[25] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSE–2023–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2023–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2023–23 and should be submitted on or before July 17, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

James DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–13499 Filed 6–23–23; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6).

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Tribal Listening Sessions for Small Business Development Centers

AGENCY: U.S. Small Business Administration.

ACTION: Notice of tribal listening sessions; request for comments.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) announces that it is holding tribal listening sessions in Washington, DC and New York, NY, concerning proposed revisions to the Small Business Development Centers (SBDC) Program regulations. Additionally, SBA requests comments and input on how best to propose policies or regulations to deliver business development services more efficiently and effectively to underserved communities in Indian Country. Testimony presented at these tribal listening sessions will become part of the administrative record for SBA's consideration when the Agency deliberates on approaches to changes in the regulations governing the SBDC Program.

DATES: The Tribal Listening Sessions dates are as follows:

1. Tuesday, July 18, 2023, 3:00 p.m. to 5:00 p.m. (EDT), Washington, DC. Pre-registration for this Tribal Listening Session is requested by July 14, 2023.

2. Thursday, July 20, 2023, 3:30 p.m. to 4:30 p.m. (EDT), New York, New York. Pre-registration for this Tribal Listening Session is requested by July 18, 2023.

ADDRESSES:

Meeting Locations:

1. The Tribal Listening Session in Washington, DC will be held at the National Museum of the American Indian, 300 Maryland Ave. SW, Washington, DC 20004. Commenters and attendees may participate in-person or remotely at this listening session.

2. The Tribal Listening Session in New York, New York will be held at the Native Edge Institute—New York, Hard Rock Hotel New York, 159 West 48th Street, New York, New York 10036.

Pre-registration: Send pre-registration requests to attend and/or testify to Chequita Carter of SBA's Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; *Chequita.Carter@sba.gov;* or Facsimile to (202) 481–2177.

Comments: You may submit comments, identified by Regulations Identifier Number (RIN) 3245–AE05, by any of the following methods:

- *Email:* to Jackson S. Brossy, Assistant Administrator, Office of Native American Affairs, U.S. Small Business Administration, at *onaa@sba.gov.*
- *Mail (for paper, disk, or CD–ROM submissions):* to Jackson S. Brossy, Assistant Administrator, Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416.

Instructions: All submissions received will become part of the administrative record for any rulemaking resulting from these tribal listening sessions. As such, comments received may be posted on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the comments to Jackson S. Brossy and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will make a final determination as to whether the comments will be published.

FOR FURTHER INFORMATION CONTACT: Chequita Carter, Program Assistant for SBA's Office of Native American Affairs, at *Chequita.Carter@sba.gov* or (202) 205–6680 or by facsimile to (202) 481–2177. This phone number can also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

I. Background

SBA published an advanced notice of proposed rulemaking (ANPRM) on April 2, 2015, 80 FR 17708, seeking comments on the development of new definitions, clarification of existing program requirements, and the renewal or termination of the notice of award in the SBDC Program. The ANPRM also solicited comments on international trade counselor certification requirements, required steps for the selection of Lead Center Directors, procedures for international travel, and procedures regarding the suspension, termination or nonrenewal of an SBDC's cooperative agreement.

SBA received 133 comments on this ANPRM, most of which generally fell into four categories: the role of the District Office, definitions/clarifications, client confidentiality, and the Lead Center Director hiring process. After considering these comments, on December 13, 2023, SBA published a proposed rule concerning the SBDC Program under RIN 3245–AE05 with the following proposed revisions. 87 FR 76127. First, SBA proposed to clarify and define the role of the District Office regarding grant oversight activities by proposing new definitions and procedures throughout program regulations. Second, SBA proposed the addition of 23 new definitions and the revision of existing definitions to explicitly define and clarify the various roles, procedures, documents, and categories of funding. Third, SBA proposed a new section to codify SBDC client confidentiality requirements under the Small Business Development Centers Act of 1980 (Pub. L. 96–302, 94 Stat. 833). Finally, the rule proposed to add the current process of hiring a Lead Center Director, as outlined in the cooperative agreement. The intent of these changes was to make SBDC Program operations more streamlined and less onerous for recipient organizations and the Agency and to align with current practices required under the notice of funding opportunity and cooperative agreement. The majority of the proposed changes were already required and implemented by the SBDCs; however, the proposed regulations sought to formally promulgate existing requirements in the SBDC Program regulations to ensure consistency. In addition, the rule proposed to incorporate the Uniform Guidance at 2 CFR part 200, which streamlined and consolidated government requirements for receiving and using Federal awards to reduce administrative burden and improve outcomes. SBA specifically requested comments on these proposed revisions to the SBDC Program regulations.

The Agency is aware of recent studies indicating that geographic and other barriers limit access to in-person SBDC services in Native communities nationwide. SBA is seeking comments and input on approaches to improve access to SBDC Program Services in Native communities.

II. Tribal Listening Sessions

The purpose of these tribal listening sessions is to provide interested parties with an opportunity to discuss their views on the issues; and for SBA to obtain the views of SBA's stakeholders on approaches to the SBDC Program regulations. SBA considers tribal listening sessions a valuable component of its deliberations and believes that these tribal listening sessions will allow for constructive dialogue with the Tribal community, Tribal Leaders, Tribal Elders, elected members of Alaska Native Villages or their appointed representatives, and principals of tribally-owned and Alaska Native Corporation (ANC)-owned firms participating in SBA's programs.

The format of these tribal listening sessions will consist of a panel of SBA representatives who will preside over the session. The oral and written testimony as well as any comments SBA receives will become part of the administrative record for SBA's consideration. Written testimony may be submitted in lieu of oral testimony. SBA will analyze the testimony, both oral and written, along with any written comments received. SBA officials may ask questions of a presenter to clarify or further explain the testimony. The purpose of the tribal consultation is to assist SBA with gathering information to guide SBA's review process and to potentially develop new proposals. SBA requests that the comments focus on SBA's proposed rulemaking concerning the SBDC Program, general issues as they pertain to the SBDC Program, or the unique concerns of the Tribal communities. SBA requests that commenters do not raise issues pertaining to other SBA small business programs. Presenters are encouraged to provide a written copy of their testimony. SBA will accept written material that the presenter wishes to provide that further supplements his or her testimony. Electronic or digitized copies are encouraged.

Each tribal listening session will be held for one day. The meeting in Washington, DC will begin at 3 p.m. and end at 5 p.m. (EDT); and the meeting in New York, New York will begin at 3:30 p.m. and end at 4:30 p.m. (EDT). SBA will adjourn early if all those scheduled have delivered their testimony.

III. Registration

SBA respectfully requests that any elected or appointed representative of the tribal communities or principal of a tribally-owned, or ANC-owned firm that is interested in attending please pre-register in advance and indicate whether you would like to testify at the hearing. However, pre-registration is not required for attendance. SBA requests that attendees register with SBA no later than: July 14, 2023, for the listening

session in Washington; and July 18, 2023, for the listening session in New York. To register, please contact Chequita Carter of SBA's Office of Native American Affairs in writing at *Chequita.Carter@sba.gov* or by facsimile to (202) 481–2177. If you are interested in testifying, please include the following information relating to the person testifying: Name, Organization affiliation, Address, Telephone number, Email address and Fax number. For those who wish to remotely attend the session in Washington, DC, SBA will provide further instructions upon registration. SBA will attempt to accommodate all interested parties that wish to present testimony. Based on the number of registrants it may be necessary to impose time limits to ensure that everyone who wishes to testify has the opportunity to do so. SBA will confirm in writing the registration of presenters and attendees.

IV. Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the listening session, contact Chequita Carter at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 15 U.S.C. 634 and E.O. 13175, 65 FR 67249.

Jackson S. Brossy,

Assistant Administrator, Office of Native American Affairs.

[FR Doc. 2023–13433 Filed 6–23–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before July 26, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The information collected on SBA Form 480, ''Size Status Declaration'' is a certification of small business size status. This information collection is used to determine whether SBIC financial assistance is provided only to small business concerns as defined in the Small Business Investment Act and SBA size regulations. Without this certification, businesses that exceed SBA's size standards could benefit from program resources meant for small businesses.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control Number: 3245–0009.

Title: Size Status Declaration.

Description of Respondents: Small business Investment Companies.

SBA Form Number: 480.

Estimated Number of Respondents: 1,694.

Estimated Annual Responses: 1,386.

Estimated Annual Hour Burden: 282.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–13505 Filed 6–23–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12110]

Biodiversity Beyond National Jurisdiction

ACTION: Notice of public meeting.

SUMMARY: The Department of State will hold an information session regarding the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

DATES: The public meeting will be held via WebEx on June 27, 2023, 2–3:30 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: If you would like to participate in this meeting, please provide your (1) name, (2) organization/affiliation, and (3) email address and phone number, to Meaghan Cuddy at *CuddyMR@state.gov* or 202–340–3272.

SUPPLEMENTARY INFORMATION: The Department of State will hold a public meeting at 2 p.m. on Tuesday, June 27, 2023, to discuss the iAgreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). This public meeting will be held by way of WebEx, with a capacity of up to 1000 members of the public to participate. To RSVP, participants should contact the meeting coordinator, Meaghan Cuddy, by email at *CuddyMR@state.gov* for log on and dial-in information, and to request reasonable accommodation. Requests for reasonable accommodation received after June 23, 2023, will be considered but might not be possible to fulfill.

Negotiations on the BBNJ Agreement concluded at the resumed fifth session of the BBNJ intergovernmental conference (IGC) from February 20–March 4, 2023 The Agreement was adopted by the IGC on June 19, 2023, at the United Nations. It is anticipated that the Agreement will be opened for signature on September 20, 2023. Additional information on the BBNJ Agreement is available at *www.un.org/bbnj.*

We are inviting interested U.S. stakeholders to this virtual public meeting to share views about the BBNJ Agreement. We will provide a brief overview of the Agreement and next steps post-adoption and listen to the viewpoints of U.S. stakeholders. The information obtained from this session will help the U.S. delegation in its preparations for the next steps following the adoption of the agreement.

Authority: 22 U.S.C. 2656.

Jennifer Becker,

Acting Director, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2023–13506 Filed 6–23–23; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 12109]

30-Day Notice of Proposed Information Collection: Crisis Assistance Request Form

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to July 26, 2023.

ADDRESSES: You may submit comments by any of the following methods: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Clifton Oliphant, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/MSU), U.S. Department of State, 2201 C St. NW, Washington, DC 20522, who may be reached at *OlipantCE@state.gov* or by phone at 202–485–6020.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Crisis Assistance Request Form.
- *OMB Control Number:* 1405–XXXX.
- *Type of Request:* New collection.
- *Originating Office:* Bureau of Consular Affairs.
- *Form Number:* No form number.
- *Respondents:* U.S. citizens and lawful permanent residents currently in a country experiencing a crisis.
- *Estimated Number of Respondents:* 120,000.
- *Estimated Number of Responses:* 120,000.
- *Average Time per Response:* 5 minutes.
- *Total Estimated Burden Time:* 10,000 hours.
- *Frequency:* Once.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology. Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The purpose of the collection is to enable the Department of State to better identify and communicate with U.S. citizens and lawful permanent residents (LPRs) who may be in need of assistance in a country experiencing a crisis. The form asks U.S. citizens and LPRs currently in a country experiencing a crisis to share information with us about their current plans, the number of people in their group, and their exact location. It also asks for their latest contact information and contact information for an emergency contact not currently in the country.

The Department is utilizing this form to acquire the most current and accurate data possible to inform our consular assistance efforts. It will allow us to build a more current picture of how many U.S. citizens and LPRs plan to remain in the country experiencing a crisis and any who may request reimbursable loan assistance to depart or other consular assistance. Completion of the form is entirely voluntary.

U.S. government-assisted evacuations can vary depending on the nature of the crisis. In extreme situations, where local infrastructure is damaged or failing but the security situation still allows for some safe movement, the Department may work with the host government, other countries, and other U.S. government agencies to arrange chartered or non-commercial transportation based on information entered in this form. With respect to LPRs, the Department may accommodate special family circumstances, such as when a spouse or other immediate relative of a U.S. citizen is traveling with the U.S. citizen family member.

Methodology

The collection will be completed 100 percent electronically. The respondent will access the form at the following link: *https://cacms.state.gov/s/crisis-intake.* The link will also be accessible from the crisis country's country information page on *www.travel.state.gov,* the U.S. embassy or consulate website for that country, and other Department of State communications. The Department may also choose as appropriate to distribute the form's URL through emails from *@state.gov* email addresses, or in messaging sent as consular information products. The link will only be activated when there is a need to collect the information.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2023–13481 Filed 6–23–23; 8:45 am]

BILLING CODE 4710–06–P

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at June 15, 2023 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on June 15, 2023, in Harrisburg, Pennsylvania, the Commission approved the applications of certain water resources projects and took additional actions, as set forth in the **SUPPLEMENTARY INFORMATION** below.

DATES: June 15, 2023.

ADDRESSES: Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary, telephone: (717) 238–0423, ext. 1312, fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address. See also the Commission website at *www.srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also acted upon at the business meeting: (1) election of Commission officers for FY2024; (2) reconciliation of FY2024 budget; (3) approval of an easement

agreement; (4) adoption of General Permit GP–02 Groundwater Withdrawals for Emergency Uses or Maintenance Activities; (5) adoption of Water Resources Program for FY2024; (6) approval an emergency certificate extension; and (7) approval of a waiver of application fees.

Project Applications Approved

1. *Project Sponsor:* Biglerville Borough Authority. Project Facility: Biglerville Borough Water Company, Biglerville Borough and Butler Township, Adams County, Pa. Application for renewal of groundwater withdrawal of up to 0.112 mgd (30-day average) from Well 7 (Docket No. 19930503).

2. *Project Sponsor and Facility:* Blackhill Energy L.L.C. (Susquehanna River), Ulster Township, Bradford County, Pa. Application for surface water withdrawal of up to 3.024 mgd (peak day).

3. *Project Sponsor and Facility:* Chesapeake Appalachia, L.L.C. (Sugar Creek), North Towanda Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20180602).

4. *Project Sponsor and Facility:* Chesapeake Appalachia, L.L.C. (Susquehanna River), Asylum Township, Bradford County, Pa. Application for surface water withdrawal of up to 3.000 mgd (peak day).

5. *Project Sponsor:* Coal Mountain Development and Recreation L.L.C. Project Facility: Eagles Ridge Golf Course, Ferguson Township, Clearfield County, Pa. Application for renewal of consumptive use of up to 0.099 mgd (30-day average) (Docket No. 20080613).

6. *Project Sponsor:* Glenn O. Hawbaker, Inc. Project Facility: Naginey Facility (Naginey Quarry Processing Pond), Armagh Township, Mifflin County, Pa. Modification to increase groundwater withdrawal (30-day average) by an additional 0.425 mgd, for a total groundwater withdrawal of up to 0.725 mgd (Docket No. 20211204).

7. *Project Sponsor:* Hazleton City Authority. Project Facility: Delano Division, Mahanoy Township, Schuylkill County, Pa. Application for groundwater withdrawal of up to 0.275 mgd (30-day average) from Park Place Well 1.

8. *Project Sponsor and Facility:* Hillandale-Gettysburg, L.P., Tyrone Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.050 mgd (30-day average) from Well 5.

9. *Project Sponsor and Facility:* L.D.G. Innovation, L.L.C. (Tioga River), Lawrenceville Borough, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20180603).

10. *Project Sponsor:* Milton Hershey School. Project Facility: Spring Creek Golf Course, Derry Township, Dauphin County, Pa. Application for renewal of consumptive use of up to 0.081 mgd (peak day) (Docket No. 20080615).

11. *Project Sponsor and Facility:* Mountain Energy Services, Inc. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 1.498 mgd (peak day) (Docket No. 20180605).

12. *Project Sponsor:* New Enterprise Stone & Lime Co., Inc. Project Facility: Laflin Quarry, Plains Township, Luzerne County, Pa. Applications for consumptive use (peak day) of up to 0.040 mgd and groundwater withdrawals (30-day averages) of up to 0.110 mgd from Well 1, 0.132 mgd from Well 2, 0.484 mgd from Well 3, 0.110 mgd from Well 4, 0.209 mgd from Well 5, and 0.209 mgd from Well 6.

13. *Project Sponsor and Facility:* Northeast Marcellus Aqua Midstream I, L.L.C. (Susquehanna River), Tunkhannock Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 5.000 mgd (peak day) (Docket No. 20200919).

14. *Project Sponsor and Facility:* Pennsylvania General Energy Company, L.L.C. (Pine Creek), Watson Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.918 mgd (peak day) (Docket No. 20180608).

15. *Project Sponsor and Facility:* Pilgrim's Oak Golf Course (Peters Creek and Unnamed Tributary to Peters Creek), Drumore Township, Lancaster County, Pa. Applications for renewal of surface water withdrawal of up to 0.237 mgd (peak day) and consumptive use of up to 0.237 mgd (30-day average) (Docket No. 19980505).

16. *Project Sponsor and Facility:* Pro-Environmental, L.L.C. (Martins Creek), Lathrop Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20180609).

17. *Project Sponsor and Facility:* Repsol Oil & Gas U.S.A., L.L.C. (Fall Brook), Troy Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.176 mgd (peak day) (Docket No. 20180610).

18. *Project Sponsor and Facility:* Repsol Oil & Gas U.S.A., L.L.C. (Unnamed Tributary to North Branch Sugar Creek), Columbia Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.926 mgd (peak day) (Docket No. 20180611).

19. *Project Sponsor and Facility:* State College Borough Water Authority, Benner Township, Centre County, Pa. Applications for renewal of groundwater withdrawals (30-day averages) of up to 2.160 mgd from Well 62, 0.720 mgd from Well 63, 0.850 mgd from Well 64, and 0.720 mgd from Well 65 (Docket No. 19920102).

20. *Project Sponsor and Facility:* Sugar Hollow Water Services L.L.C. (Bowman Creek), Eaton Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 0.249 mgd (peak day) (Docket No. 20180612).

21. *Project Sponsor and Facility:* Susquehanna Gas Field Services, L.L.C. (Susquehanna River), Meshoppen Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 1.650 mgd (peak day) (Docket No. 20180614).

22. *Project Sponsor and Facility:* S.W.N. Production Company, L.L.C. (Cowanesque River), Deerfield Township, Tioga County, Pa. Application for surface water withdrawal of up to 1.500 mgd (peak day).

23. *Project Sponsor and Facility:* Titanium Metals Corporation (TIMET), Caernarvon Township, Berks County, Pa. Application for renewal of consumptive use of up to 0.177 mgd (30-day average) (Docket No. 20080616).

24. *Project Sponsor and Facility:* Town Big Flats, Chemung County, N.Y. Applications for renewal with an increase of groundwater withdrawals (30-day averages) of up to 0.577 mgd from W.D. 2-Well 1 and 0.365 mgd from W.D. 2-Well 2 (Docket No. 19910304).

25. *Project Sponsor and Facility:* Town of Erwin, Steuben County, N.Y. Application for groundwater withdrawal of up to 1.440 mgd (30-day average) from Well 7.

Commission-Initiated Project Approval Modification

1. *Project Sponsor and Facility:* Village of Oxford, Town of Oxford, Chenango County, N.Y. Conforming the grandfathered amount with the forthcoming determination for groundwater withdrawals (30-day averages) of up to 0.402 mgd from Well 1 and 0.099 mgd from Well 2 (Docket No. 20040601).

Projects Tabled

1. *Project Sponsor and Facility:* Dillsburg Area Authority, Carroll Township, York County, Pa.

Application for renewal of groundwater withdrawal of up to 0.460 mgd (30-day average) from Well 7 (Docket No. 20070907).

2. *Project Sponsor and Facility:* Nicholas Meat, L.L.C., Greene Township, Clinton County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.288 mgd from Well WS–1, 0.173 mgd from Well WS–3 and 0.144 mgd from Well WS–4.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: June 21, 2023.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2023–13508 Filed 6–23–23; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1427]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: National Flight Data Center Web Portal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves aeronautical information detailing the physical description and operational status of all components of the National Airspace System (NAS). The information to be collected will be used to update government, military, and private aeronautical databases, charts, publications, flight management systems, and in-flight tracking products.

DATES: Written comments should be submitted by August 25, 2023.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: John Graybill, FAA, Aeronautical Information Services, AJV–A35, Station 5150, 1305 East-West Highway, SSMC–4, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: John Graybill by email at: *John.Graybill@faa.gov;* phone: 202–267–3742

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0754.

Title: National Flight Data Center Web Portal.

Form Numbers: AD1–ADCP, AD3–ACC.

Type of Review: Renewal of an information collection.

Background: 49 U.S.C 40103, ''Sovereignty and Use of Airspace,'' authorizes and directs the FAA to develop plans and policy for the use of the navigable airspace. The National Flight Data Center (NFDC) is the authoritative government source for collecting, validating, storing, maintaining, and disseminating aeronautical data concerning the United States and its territories to support real-time aviation activities. The information collected ensures the safe and efficient navigation of the national airspace. The information collected includes, but is not limited to, data regarding airport associated city, CTAF, UNICOM, facility use, runway lighting, airport sketches and diagrams, proposed aircraft call signs, and general remarks. NFDC collects this information and maintains it in the National Airspace System resources (NASR) database. NASR serves as the official repository for NAS data and is provided to government, military, and private producers of aeronautical databases, chants, publications, flight management systems, and in-flight tracking products at no charge. Information will be collected via digital forms. Failure to collect this information would result in obsolete and inaccurate data being reflected on aviation products.

Respondents: Approximately 5,211 representatives of U.S. public airports; airlines; and aircraft operators. Average of 6,495 responses annually.

Frequency: Information to be collected on occasion.

Estimated Average Burden per Response: 21 minutes for AD1–ADCP, 20 minutes for AD3–ACC, 24 minutes for Call Signs.

Estimated Total Annual Burden: 2,261 hours.

Issued in Washington, DC, on June 21, 2023.

John L. Graybill,

Aeronautical Information Specialist, Data Systems Team, Aeronautical Information Services, AJV–A35.

[FR Doc. 2023–13494 Filed 6–23–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Additionally, OFAC is publishing the names of persons whose property and interests in property have been unblocked and who have been removed from the SDN List.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

A. On June 21, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Entities

1. MINISTRY OF DEFENSE OF BURMA (a.k.a. MINISTRY OF DEFENCE OF BURMA; a.k.a. TATMADAW), Building 24, Nay Pyi Taw, Burma; Organization Established Date 01 Aug 1937; Target Type Government Entity [BURMA–EO14014].

Designated pursuant to section 1(a)(iv) of Executive Order 14014 of February 10, 2021, ''Blocking Property With Respect to the Situation in Burma'', 86 FR 9429 (''E.O. 14014'') for being a political subdivision, agency, or instrumentality of the Government of Burma.

2. MYANMA FOREIGN TRADE BANK (a.k.a. MYANMAR FOREIGN TRADE BANK; a.k.a. ''MFTB''), 80–86 Maha Bandoola Garden Street, Yangon, Burma; SWIFT/BIC MFTBMMMY; Organization Established Date 1976; Target Type Financial Institution [BURMA–EO14014].

Designated pursuant to section 1(a)(iv) of E.O. 14014 for being a political subdivision, agency, or instrumentality of the Government of Burma.

3. MYANMA INVESTMENT AND COMMERICAL BANK (a.k.a. MYANMAR INVESTMENT AND COMMERCIAL BANK; a.k.a. ''MICB''), 170/176 Bo Aung Kyaw Street, Botataung Township, Yangon, Burma; 170/176 Bo Aung Gyaw Street, Yangong, Burma; SWIFT/BIC MICBMMMY; Organization Established Date 1990; Target Type Financial Institution [BURMA–EO14014].

Designated pursuant to section 1(a)(iv) of E.O. 14014 for being a political subdivision, agency, or instrumentality of the Government of Burma.

B. OFAC previously determined on January 31, 2023 that the individual listed below met one or more of the criteria under E.O. 14014. On June 21, 2023, the Director of OFAC determined that circumstances no longer warrant the inclusion of the following individual on the SDN List under this authority. These persons are no longer subject to the blocking provisions of Section 1(a)(iii)(B) of E.O. 14014.

Individual

1. MIN, Than, Burma; DOB 23 Nov 1956; POB Myinmu, Burma; Gender Male; National ID No. 12 LAMANA 062661 (Burma) (individual) [BURMA–EO14014].

Authority: E.O. 14014, 86 FR 9429.

Dated: June 21, 2023.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–13515 Filed 6–23–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Meeting

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Notice of meeting.

SUMMARY: The Internal Revenue Service Advisory Council will hold a public meeting.

DATES: The meeting will be held Wednesday, July 19, 2023.

ADDRESSES: The meeting will be held virtually.

FOR FURTHER INFORMATION CONTACT: Ms. Anna Brown, Office of National Public Liaison, at 202–317–6564 or send an email to *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 5 U.S.C. 10(a)(2) of the Federal Advisory Committee Act, that a public meeting of the Internal Revenue Service Advisory Council (IRSAC) will be held on Wednesday, July 19, 2023, to discuss topics that may be recommended for inclusion in a future report of the Council. The virtual meeting will take place at 3 p.m. eastern time.

To confirm your attendance, members of the public may contact Anna Brown at 202–317–6564 or send an email to *PublicLiaison@irs.gov.* Attendees are encouraged to join at least five minutes before the meeting begins.

Should you wish the IRSAC to consider a written statement germane to the Council's work, please call 202–317–6564 or email *PublicLiaison@irs.gov* by July 17, 2023.

Dated: June 21, 2023.

John A. Lipold,

Designated Federal Official, Office of National Public Liaison, Internal Revenue Service.

[FR Doc. 2023–13507 Filed 6–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Emergency Capital Investment Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 26, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Emergency Capital Investment Program.

*OMB Control Number:*1505–0267.

Type of Review: Extension of a currently approved collection.

Description: The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, added section 104A of the Community Development Banking and Financial Institutions Act of 1994 (the ''Act''). Section 104A authorizes the Secretary of the Treasury to establish the Emergency Capital Investment Program (Program) to support the efforts of low- and moderate-income community financial institutions to, among other things, provide loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, especially in low-income and underserved communities, including persistent poverty counties, that may be disproportionately impacted by the economic effects of the COVID–19 pandemic by providing direct and indirect capital investments in low-and moderate-income community financial institutions.

Applications, a state regulator response form, and eligible applicant intent to participate form were previously approved under OMB Control Number 1505–0267. Following review of the applications, Treasury will enter into letter agreements (agreements) with participating financial institutions. These agreements contain standardized information collection necessary for the legal closing process. The agreements collect information from applicants in two general categories: (1) administrative information needed to

facilitate payments and notifications and (2) disclosures to Treasury (*e.g.* litigation or exceptions to representations and warranties). Participants are the only parties that can provide information of this type to Treasury. Treasury will publish this form on the Treasury website. Based on this publication, Treasury will provide an opportunity for eligible applicants to review the terms and conditions of the investments prior to indicating to Treasury whether the institution intends to participate in the Program.

Form Name: Letter Agreements; Applicant Notification Letter.

Affected Public: Private sector, businesses or other for-profits, non-profit institutions.

Estimated Number of Respondents: 372 respondents.

Frequency of Response: Once, annually.

Estimated Total Number of Annual Responses: 372 total responses (186 annual responses to Letter Agreements; 186 annual responses to Applicant Notification Letter).

Estimated Time per Response: 8 hours annually for Letter Agreements; 15 minutes for response to Applicant Notification Letter.

Estimated Total Annual Burden Hours: 1,535 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2023–13492 Filed 6–23–23; 8:45 am]

BILLING CODE 4810–ak–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Financial Crimes Enforcement Network (FinCEN).

AGENCY: Financial Crimes Enforcement Network, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, to an information collection requirement contained in FinCEN's regulations and FinCEN Form 107—Registration of Money Services Business (RMSB). Under the regulations, money services businesses (MSBs) must register with FinCEN using FinCEN Form 107, renew their registration every two years, and maintain a list of their agents. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments should be received on or before July 26, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

Title: Registration of Money Services Businesses.

OMB Control Number: 1506–0013.

Form Number: FinCEN Form 107—RMSB.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the registration of money services business regulations at 31 CFR 1022.380 and FinCEN Form 107—RMSB.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Business or other for-profit institutions.

Initial Registration

Frequency: As required.

Estimated Burden per Respondent: FinCEN estimates that the hourly burden of filing and maintaining a copy of the initial RMSB form is 1 hour and 10 minutes. (1 hour to fill out the form and file it, and 10 minutes to save the form electronically and print out a copy to maintain). FinCEN stipulates that the information required to be included on the form is basic information MSBs need to maintain to conduct business. The e-filing system prompts MSBs to save the registration form after submission.

Estimated Number of Respondents: 3,603 MSBs.

Estimated Total Annual Burden Hours: 4,204 hours.

Registration Renewal

Frequency: Every two years.

Estimated Burden per Respondent: FinCEN estimates that the hourly burden of filing and maintaining a copy of the renewal of the RMSB form is 40 minutes (30 minutes to revise the form and file it, and 10 minutes to save the form electronically and print out a copy to maintain). FinCEN stipulates that the information required to be included on the form is basic information MSBs need to maintain to conduct business. In addition, FinCEN's e-filing system allows MSBs to open a previously filed RMSB form and the electronic form is pre-populated with the information from the prior filing. MSBs can amend Part I by selecting item 1b (renewal) and submit the form. MSBs can update any information required on the form prior to submitting the form electronically. The e-filing system prompts MSBs to save the registration form after submission.

Estimated Number of Respondents: 8,429 MSBs.

Estimated Total Annual Burden Hours: 5,619 hours.

Re-Registration

Frequency: As required.

Estimated Burden per Respondent: FinCEN estimates that the hourly burden of filing and maintaining a copy of the re-registration of the RMSB form is 40 minutes (30 minutes to revise the form and file it, and 10 minutes to save the form electronically and print out a copy to maintain). FinCEN stipulates that the information required to be included on the form is basic information MSBs need to maintain to conduct business. In addition, FinCEN's e-filing system allows MSBs to open a previously filed RMSB form and the electronic form is pre-populated with

the information from the prior filing. MSBs can amend Part I by selecting item 1d (re-registration) and selecting the appropriate response in item 2. MSBs can amend the applicable information required on the form and submit it electronically. The e-filing system prompts MSBs to save the registration form after submission.

Estimated Number of Respondents: 201 MSBs.

Estimated Total Annual Burden Hours: 134 hours.

Maintenance of Agent List

Frequency: Annually.

Estimated Burden: FinCEN estimates that the hourly burden of drafting an agent list and revising it annually is 30 minutes per MSB. FinCEN stipulates that the information required to be included on an agent list is basic information MSBs need to maintain to conduct business. FinCEN does not require the MSB to maintain the list in any particular format; therefore, the MSB can leverage its business records to create and revise the list.

Estimated Number of Respondents: 26,276.

Estimated Total Annual Burden Hours: 13,138 hours.

Total Annual Burden Hours for this Information Collection: 23,095 hours.

Records required to be retained under the BSA must be retained for five years. Generally, information reported pursuant to the BSA is confidential or otherwise protected from disclosure but may be shared as provided by law with regulatory and law enforcement authorities.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–13514 Filed 6–23–23; 8:45 am]

BILLING CODE 4810–02–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: June 27, 2023, 1:30 p.m. to 4:30 p.m., Eastern time.

PLACE: This meeting shall take place at the Providence Marriott Downtown, The Angel Room, 1 Orms Street, Providence, RI 02904. This meeting will also be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll), Meeting ID: 970 3011 5256, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJMtdOmprz4oH9J9qespeV7yoqsG-7ZFYkXL.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The agenda will be reviewed, and the Subcommittee will consider adoption of the agenda.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes From the March 23, 2023, Meeting—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the March 23, 2023, Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Implementation of the UCR Investment Policy—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair will lead a discussion on the investment of funds currently available for investment consistent with the UCR Investment Policy. The Subcommittee may take action to invest funds currently available for investment consistent with the Investment Policy.

VI. Amendments to the Unbudgeted Expense Reserve Policy—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair will lead a discussion regarding possible amendments to the Unbudgeted Expense Reserve Policy. The Subcommittee may take action to recommend to the Board possible amendments to the Unbudgeted Expense Reserve Policy.

VII. Amendments To Change the Method of Estimating Collections for the Future Months Remaining in a Registration Year—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair will lead a discussion regarding possible amendments to Section 6.c.ii of the Fee Change Recommendation Policy to change the method of estimating collections for the future months remaining in a registration year. The Subcommittee may take action to recommend to the Board possible amendments to Section 6.c.ii of the Fee Change Recommendation Policy.

VIII. 2025 Registration Fee Analysis and Recommendation—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair will provide an analysis pertaining to the setting of 2025 registration fees and a 2025 registration fee recommendation. The Subcommittee may take action to recommend to the Board a 2025 registration fee recommendation.

IX. Discussion Concerning the Statement of FMCSA in the 2010 UCR Fee Rulemaking on a UCR Fee Structure Based on Certain Registration Percentages—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will lead a discussion concerning the statement of FMCSA in the 2010 UCR Fee Rulemaking, **Federal Register**, Vol. 75, No. 80, at 21997 (April 27, 2010), on the setting of fees based on certain compliance rates in participating and non-participating states.

X. Revenues From 2022 and 2023 Fees—UCR Depository Manager

The UCR Depository Manager will review the revenues received from the 2022 and 2023 plan year fees.

XI. Management Report—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on UCR finances and related topics, to include current market rates on deposits, CDs, and Treasuries.

XII. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

XIII. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, June 19, 2023 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2023–13616 Filed 6–22–23; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0799]

Agency Information Collection Activity Under OMB Review: Casket and Urn Allowance

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the National Cemetery Administration (NCA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *www.reginfo.gov/public/do/PRAMain, select* ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0799.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0799'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 2306. 38 CFR 38.628.

Title: Casket/Urn Allowance, VA Form 40–10088.

OMB Control Number: 2900–0799.

Type of Review: Extension of a currently approved collection.

Abstract: The Department of Veterans Affairs, National Cemetery Administration has established VA regulations to implement statutory authority for NCA to provide allowance for the purchase of caskets and urns for the interment of the remains of Veterans without next of kin and sufficient resources available for burial.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 88 FR 24279, April 19, 2023.

Affected Public: Individuals or households.

Estimated Annual Burden: 56 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 336.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–13526 Filed 6–23–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Advisory Committee on United States Outlying Areas and Freely Associated States

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is seeking nominations of qualified candidates to be considered for appointment to the Advisory Committee on United States Outlying Areas and Freely Associated States (hereinafter referred to alternatively as FAS or ''the Committee'').

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on July 31, 2023.

ADDRESSES: All nominations should be emailed to *vaadvisorycmte@va.gov.* Please write Nomination for FAS Membership in the subject line.

FOR FURTHER INFORMATION CONTACT: Mr. Bernard Johnson, Outreach, Transition and Economic Development (OTED), VA, via email at *bernard.johnson2@va.gov* or telephone at (404) 210–1680. A copy of the Committee charter can be obtained by contacting Mr. Johnson or by accessing the website: *https://www.va.gov/advisory.*

SUPPLEMENTARY INFORMATION: The Committee was established to provide advice to the Secretary of the Veterans Affairs (Secretary) on matters relating to covered Veterans. Covered Veteran is defined as a Veteran residing in American Samoa, Guam, Puerto Rico, The Commonwealth of the Northern Mariana Islands, The Virgin Islands of the United States, The Federated States of Micronesia, The Republic of the Marshall Islands and The Republic of Palau.

The Committee responsibilities are to:

1. Advise the Secretary on matters relating to covered Veterans, including how the Secretary may improve the programs and services of the Department to better serve such Veterans.

2. Identify for the Secretary evolving issues of relevance to covered Veterans.

3. Propose clarifications, recommendations, and solutions to address issues raised by covered Veterans.

4. Provide a forum for covered Veterans, Veterans Service Organizations (VSO) serving covered Veterans and the Department to discuss issues and proposals for changes to regulations, policies, and procedures of the Department.

5. Identify priorities for and provide advice to the Secretary on appropriate strategies for consultation with VSOs serving covered Veterans.

6. Encourage the Secretary to work with the heads of other Federal departments and agencies, and Congress, to ensure covered Veterans are provided the full benefits of their status as covered Veterans.

7. Highlight contributions of covered Veterans in the Armed Forces.

8. Conduct other duties as determined appropriate by the Secretary.

Authority: The Committee is authorized by statute, 38 U.S.C. 548 Advisory Committee on United States Outlying Areas and Freely Associated States. The Committee operates under the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. ch. 10.

Membership Criteria: VA is requesting nominations for upcoming vacancies on the Committee. The Committee shall be comprised of not more than 15 members. The Secretary will select the Committee Chair from among the Committee members. The Committee is required to appoint at least one member to represent covered Veterans as specified in and stipulated under **SUPPLEMENTARY INFORMATION**. Further, at all times, unless an insufficient number of qualified covered Veterans are available, not fewer than half of the members shall be covered Veterans. Each appointed member must reside in an area specified in and stipulated under **SUPPLEMENTARY INFORMATION**. Additionally, the Committee shall incorporate such ex-officio members as the Secretary of State and the Secretary of the Interior shall appoint from their Departments, respectively.

Membership Terms: Individuals selected for appointment to the Committee shall be invited to serve a two-year term. At the Secretary's discretion, members may be reappointed to serve an additional term. All members will receive travel expenses and a per diem allowance in accordance with the Federal Travel Regulation for any travel made in connection with their duties as members of the Committee.

Requirements for Nomination Submission: Nominations should be type written (one nomination per nominator). Nomination package should include: (1) a letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone numbers, and email address; (3) the nominee's curriculum vitae, *not to exceed five pages* and (4) a summary of the nominee's experience and qualification relative to the membership criteria listed above. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

The Department makes every effort to ensure that the membership of its Federal advisory committees is fairly balanced in terms of points of view represented and the Committee's function. Every effort is made to ensure that a broad representation of geographic areas, gender, racial and ethnic minority groups, and the disabled are given consideration for membership. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, or genetic information.

Dated: June 20, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–13422 Filed 6–23–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

VA National Academic Affiliations Council, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the VA National Academic Affiliations Council (Council) will meet via conference call on June 29, 2023, from 2:00 p.m. to 4:00 p.m. EST. The meeting session is open to the public.

The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On June 29, 2023, the Council will receive project updates and have discussions on actions affecting the educational mission of VA. The Council will receive public comments from 3:45 p.m. to 3:55 p.m. EST.

Interested persons may attend and/or present oral statements to the Council.

The dial in number to attend the conference call is: 669–254–5252. At the prompt, enter meeting ID 161 502 3864, then press #. The meeting passcode is 842538, then press #. Individuals seeking to present oral statements are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting or at any time, by email to *nellie.mitchell@va.gov,* or by mail to Nellie Mitchell, MS, RHIA, Designated Federal Officer, Office of Academic Affiliations (14AA), 810 Vermont Avenue NW, Washington, DC 20420. Any member of the public wishing to participate or seeking additional information should contact Ms. Mitchell via email or by phone at (608) 358–9902.

Dated: June 20, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–13425 Filed 6–23–23; 8:45 am]

BILLING CODE 8320–01–P

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Federal Register

Vol. 88, No. 121

Monday, June 26, 2023

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FEDERAL REGISTER PAGES AND DATE, JUNE

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 16, 2023

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PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/—layouts/PG/register.aspx*.

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